

SENATE BILL NO. 448

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services

on _____)

(Patron Prior to Substitute--Senator Rouse)

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

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-603, 4.1-604, 4.1-606, 4.1-614, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247,

27 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-
28 254, 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-
29 265.3, 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-
30 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
31 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,
32 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia are
33 amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title
34 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7
35 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered
36 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and
37 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200
38 through 4.1-1207, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and
39 4.1-1303 through 4.1-1312, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through
40 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108 as follows:

41 **§ 3.2-4113. Production of industrial hemp lawful.**

42 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or
43 his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any
44 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
45 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
46 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol
47 concentration that does not exceed the total tetrahydrocannabinol concentration percentage established in
48 federal regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his
49 agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
50 ~~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
51 possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and
52 in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et
53 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-

54 3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained
55 in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or
56 exemption shall be on the defendant.

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

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

63 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

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

73 **§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

105 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
106 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
107 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature

108 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
109 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial
110 hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person registered pursuant to subsection A of § 3.2-
111 4115 or his agent; (iii) industrial hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person who holds
112 a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv)
113 a hemp product, ~~as defined in § 3.2-4112~~; (v) an industrial hemp extract, ~~as defined in § 3.2-5145.1~~; or
114 (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer,
115 ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the
116 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

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

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

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

132 "~~Marijuana manufacturing facility~~" means a facility licensed under this subtitle to ~~manufacture,~~
133 ~~label, and package retail marijuana and retail marijuana products~~; ~~to purchase or take possession of retail~~
134 ~~marijuana from a marijuana cultivation facility or another marijuana manufacturing facility~~; and to transfer

135 ~~possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail~~
136 ~~marijuana stores, or other marijuana manufacturing facilities.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

185 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession
186 of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
187 marijuana cultivation facility, or marijuana ~~manufacturing~~ processing facility, ~~or;~~ to take possession of
188 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a

189 marijuana ~~wholesaler~~ transporter; and to sell retail marijuana, retail marijuana products, immature
190 marijuana plants, or marijuana seeds to consumers.

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

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

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

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

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

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

203 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
204 **meetings; compensation and expenses; duties.**

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

210 B. The Advisory Council shall have a total membership of ~~21~~ 22 members that shall consist of ~~14~~
211 15 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the
212 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic
213 diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be
214 appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia
215 Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the

216 American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of
217 Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be
218 appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a
219 community services board, one of whom shall be a person or health care provider with expertise in
220 substance use disorder treatment and recovery, one of whom shall be a person or health care provider with
221 expertise in substance use disorder prevention, one of whom shall be a person with experience in disability
222 rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom
223 shall be a person with a social or health equity background; and ~~four~~ five to be appointed by the Governor,
224 subject to confirmation by the General Assembly, one of whom shall be a representative of a local health
225 district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an
226 academic researcher knowledgeable about cannabis, ~~and~~ one of whom shall be a registered medical
227 cannabis patient, and one of whom shall be a representative of a cannabis testing laboratory that has
228 operated in the Commonwealth for no less than one year.

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

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

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

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

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

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

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

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

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

264 **§ 4.1-604. Powers and duties of the Board.**

265 The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

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

317 17. Receive and accept from any federal or private agency, foundation, corporation, association,
318 or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
319 and accept from the Commonwealth or any state and any municipality, county, or other political
320 subdivision thereof or from any other source aid or contributions of either money, property, or other things
321 of value, to be held, used, and applied only for the purposes for which such grants and contributions may
322 be made. All federal moneys accepted under this section shall be accepted and expended by the Authority

323 upon such terms and conditions as are prescribed by the United States and as are consistent with state law,
324 and all state moneys accepted under this section shall be expended by the Authority upon such terms and
325 conditions as are prescribed by the Commonwealth;

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

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

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

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

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

349 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
350 land or building required for the purposes of this subtitle;

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

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

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

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

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

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

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

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

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

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

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

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

397 **§ 4.1-606. Regulations of the Board.**

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

402 shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-
403 4000 et seq.) and shall have the effect of law.

404 B. The Board shall promulgate regulations that:

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

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

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

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

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

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

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

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

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

427 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
428 stores in the community and (ii) metrics that have similarly shown an association with negative

429 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
430 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

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

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

436 13. Establish criteria by which to ~~evaluate social equity~~ identify license applicants, ~~which shall be~~
437 ~~an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either~~
438 ~~(i) an applicant with~~ that have at least 66 percent ownership by a person or persons who ~~have been~~
439 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
440 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent~~
441 ~~ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been~~
442 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~
443 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent~~
444 ~~ownership by a person or persons who have~~ (i) have resided for at least three of the past five years in a
445 jurisdiction that is determined by the Board after utilizing census tract data made available by the United
446 States Census Bureau to have been disproportionately policed for marijuana crimes; ~~(iv) an applicant with~~
447 ~~at least 66 percent ownership by a person or persons who have resided for at least three of the last five~~
448 ~~years in a jurisdiction determined by the Board after utilizing census tract data made available by the~~
449 ~~United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent~~
450 ~~ownership by a person or persons who graduated from a historically black~~ historically economically
451 disadvantaged community; (ii) have attended for at least five years a public elementary or secondary
452 school located in a historically economically disadvantaged community; (iii) have received a federal Pell
453 Grant or attended for at least two years a college or university located in the Commonwealth at which at
454 least 30 percent of the students, on average, are eligible for a federal Pell Grant; (iv) are a veteran of the
455 armed forces of the United States and were discharged or released under conditions other than

456 dishonorable; or (v) are an industrial hemp processor or grower that is registered with the Commissioner
457 of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and
458 completed such registration prior to January 1, 2021;

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

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

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

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

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

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

480 C. The Board may promulgate regulations that:

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

- 483 a. Retail marijuana stores, 400;
- 484 b. ~~Marijuana wholesalers~~ transporters, ~~25~~ 50;
- 485 c. ~~Marijuana manufacturing~~ processing facilities, 60; ~~and~~
- 486 d. Marijuana cultivation facilities, 450; and
- 487 e. Marijuana testing facilities, the maximum number of licenses permitted under Board regulations.

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

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

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

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

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

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

506 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
 507 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
 508 7, 10, or ~~16~~ 14, and shall not promulgate any such regulation that has not been approved by a majority of
 509 the members of the Cannabis Public Health Advisory Council.

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

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

520 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

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

537 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
 538 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;
 539 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services,
 540 which shall distribute such appropriated funds to community services boards for the purpose of
 541 administering substance use disorder prevention and treatment programs; and

542 4. Five percent to public health programs, including public awareness campaigns that are designed
 543 to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform
 544 the public of other potential risks.

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

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

559 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the
 560 proper amount in favor of each ~~locality~~ county or city entitled to ~~the return of its state~~ tax revenues, and
 561 such payments shall be charged to the account of each such ~~locality~~ county or city under the special fund
 562 created by this section. If errors are made in any such payment, or adjustments are otherwise necessary,

563 whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and
564 adjustments made in the payments for the next quarter.

565 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

573 The question on the ballot shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

630 CHAPTER 7.

631 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

632 **§ 4.1-700. Exemptions from licensure.**

633 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
634 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the
635 provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that
636 is registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§
637 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
638 has been issued a regulated hemp product retail facility registration and is acting in accordance with the
639 provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article
640 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for
641 personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person
642 described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person
643 satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an

644 industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title
645 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed
646 premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an
647 industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

648 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

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

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

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

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

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

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

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

668 The Board may grant licenses for one year or for multiple years, not to exceed three years, based
669 on the fees set by the Board pursuant to § 4.1-1001. Qualification for a multiyear license shall be
670 determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be

671 refundable except as provided in § 4.1-1002. The Board may provide a discount for two-year or three-
672 year licenses, not to exceed five percent of the applicable license fee, which extends for one fiscal year
673 and shall not be altered or rescinded during such period.

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

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

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

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

685 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

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

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

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

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

710 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
711 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
712 open to the public substantially during the same hours, "reasonable hours" means the business hours when
713 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
714 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
715 24 hours after a request is made to inspect the records.

716 CHAPTER 8.

717 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

718 **§ 4.1-800. Marijuana cultivation facility license.**

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

724 to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana
725 cultivation facilities; and to transfer possession of and sell retail marijuana to marijuana processing
726 facilities:

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

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

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

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

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

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

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

747 **§ 4.1-801. Marijuana processing facility license.**

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

751 facility; to transfer possession of and sell retail marijuana and retail marijuana products to retail marijuana
752 stores or other marijuana processing facilities; and to transfer possession of retail marijuana and retail
753 marijuana products to marijuana transporters.

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

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

765 **§ 4.1-802. Retail marijuana store license.**

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

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

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

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

- 778 a. An automated dispensing or vending machine;
779 b. A drive-through sales window;
780 c. An Internet-based sales platform; or
781 d. A delivery service.
- 782 3. A retail marijuana store shall not be permitted to sell more than two and one-half ounces of retail
783 marijuana or an equivalent amount of retail marijuana products as determined by regulation promulgated
784 by the Board during a single transaction to one person.
- 785 4. A retail marijuana store shall not:
- 786 a. Give away any retail marijuana or retail marijuana products, except as otherwise permitted by
787 this subtitle; or
- 788 b. Sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds
789 to any person when at the time of such sale he knows or has reason to believe that the person attempting
790 to purchase the retail marijuana, retail marijuana product, immature marijuana plant, or marijuana seeds
791 is intoxicated or is attempting to purchase retail marijuana for someone younger than 21 years of age.
- 792 5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track
793 all retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the
794 point at which the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
795 seeds are delivered or transferred to the retail marijuana store to the point at which the retail marijuana,
796 retail marijuana products, immature marijuana plants, or marijuana seeds are sold to a consumer, delivered
797 or transferred to a marijuana testing facility, or disposed of or destroyed.
- 798 6. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et
799 seq.) of Title 3.2.
- 800 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the
801 existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the
802 availability of a means to report crimes or gain assistance. The notice required by this subsection shall (i)
803 be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in
804 subsection C of § 40.1-11.3.

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

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

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

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

819 **§ 4.1-803. Marijuana transporter license.**

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

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

830 C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track
831 the retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from the

832 point at which the retail marijuana, retail marijuana products, plants, or seeds are delivered or transferred
833 to the marijuana transporter to the point at which the retail marijuana, retail marijuana products, plants, or
834 seeds are transferred to a marijuana processor, marijuana transporter, retail marijuana store, or marijuana
835 testing facility or are disposed of or destroyed.

836 **§ 4.1-804. Marijuana testing facility license.**

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

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

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

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

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

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

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

859 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

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

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

871 **§ 4.1-806. Temporary permits required in certain instances.**

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

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

885 **§ 4.1-807. Licensee shall maintain possession of premises.**

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

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

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

896 **§ 4.1-809. Conditions under which the Board shall or may refuse to grant licenses.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

932 2. The applicant is a member or employee of the Board or is a corporation or other business entity
933 in which a member or employee of the Board is a stockholder or has any other economic interest.
934 Whenever any other elected or appointed official of the Commonwealth or any political subdivision
935 thereof applies for such a license or continuance thereof, he shall state on the application the official
936 position he holds, and whenever a corporation or other business entity in which any such official is a
937 stockholder or has any other economic interest applies for such a license, it shall state on the application
938 the full economic interests of each such official in such corporation or other business entity.

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

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

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

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

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

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

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

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

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

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

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

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

977 **§ 4.1-810. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
 978 **exceptions.**

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

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

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

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

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

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

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

999 CHAPTER 9.

1000 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

1001 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

1002 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1003 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
1004 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
1005 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
1006 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
1007 percent or more of the membership interest of the limited liability company:

1008 a. Has misrepresented a material fact in applying to the Board for such license;

1009 b. Within the five years immediately preceding the date of the hearing held in accordance with §
1010 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),
1011 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or
1012 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to
1013 comply with any of the conditions or restrictions of the license granted by the Board;

1014 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
1015 under the laws of any state or of the United States;

1016 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
1017 other persons have ownership interests in the business that have not been disclosed;

1018 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
1019 conducted under the license granted by the Board;

- 1020 f. Has been intoxicated or under the influence of some self-administered drug while upon the
1021 licensed premises;
- 1022 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
1023 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
1024 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 1025 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
1026 such licensed premises;
- 1027 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
1028 product except as provided under this subtitle;
- 1029 j. Is physically unable to carry on the business conducted under such license or has been
1030 adjudicated incapacitated;
- 1031 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;
- 1032 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
1033 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
1034 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
1035 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
1036 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
1037 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
1038 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
1039 any conduct related to the operation of the licensed business that facilitates the commission of any of the
1040 offenses set forth herein;
- 1041 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
1042 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1043 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
1044 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
1045 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
1046 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.)

1047 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
1048 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
1049 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
1050 threat to the public safety;

1051 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
1052 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
1053 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1054 of public property immediately adjacent to the licensed premises; or

1055 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1056 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1057 2. The place occupied by the licensee:

1058 a. Does not conform to the requirements of the governing body of the county, city, or town in
1059 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
1060 any similar requirements established by the laws of the Commonwealth or by Board regulations;

1061 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

1062 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
1063 drunks, prostitutes, pimps, panders, or habitual law violators or has become a place where illegal drugs
1064 are regularly used or distributed. The Board may consider the general reputation in the community of such
1065 establishment in addition to any other competent evidence in making such determination.

1066 3. The licensee or any employee of the licensee discriminated against any member of the Armed
1067 Forces of the United States by prices charged or otherwise.

1068 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
1069 had the facts been known.

1070 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
1071 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
1072 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
1073 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction

1074 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
1075 plan approved by the same locality to settle the outstanding liability.

1076 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
1077 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
1078 licensed premises in the Commonwealth.

1079 7. Any other cause authorized by this subtitle.

1080 B. The Board shall promulgate regulations regarding suspension and revocation standards and
1081 protocols.

1082 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

1083 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
1084 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
1085 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
1086 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
1087 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1088 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
1089 continuing threat to public safety and that summary suspension of the license or permit is justified to
1090 protect the health, safety, or welfare of the public.

1091 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
1092 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
1093 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
1094 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
1095 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
1096 the licensee may petition the Board for a restricted license pending the results of the formal investigation
1097 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
1098 Board shall have discretion to impose appropriate restrictions based on the facts presented.

1099 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
1100 a formal investigation. The formal investigation shall be completed within 10 days of its commencement

1101 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
1102 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
1103 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
1104 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the
1105 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee
1106 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The
1107 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

1108 D. Service of any order of suspension issued pursuant to this section shall be made by a special
1109 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
1110 immediately upon service.

1111 E. This section shall not apply to temporary permits granted under § 4.1-806.

1112 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1113 The Board shall suspend or revoke any license if it finds that:

1114 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
1115 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

1116 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
1117 government or governmental agency or authority, by making or filing any report, document, or tax return
1118 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
1119 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
1120 government or governmental agency or authority, by making or maintaining business records required by
1121 statute or regulation that are false or fraudulent.

1122 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**
1123 **penalties.**

1124 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
1125 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
1126 Administrative Process Act (§ 2.2-4000 et seq.).

1127 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
1128 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
1129 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
1130 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
1131 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
1132 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
1133 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
1134 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
1135 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
1136 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
1137 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1138 If the Board fails to provide for inspection or copying under this section for the licensee after a
1139 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
1140 have lawfully been entitled to inspect or copy under this section.

1141 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
1142 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
1143 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
1144 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
1145 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
1146 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
1147 mandamus nor injunction shall lie in any such case.

1148 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
1149 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
1150 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
1151 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
1152 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
1153 violation or \$5,000 for the second or subsequent violation occurring within five years immediately

1154 preceding the date of the second or subsequent violation. However, if the violation involved selling retail
1155 marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail
1156 marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board
1157 may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years
1158 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring
1159 within five years immediately preceding the date of the second or subsequent violation in lieu of such
1160 suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee
1161 pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding
1162 the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

1163 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
1164 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
1165 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
1166 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing
1167 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed
1168 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges
1169 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of
1170 the suspension as applicable, or (4) proceed to a hearing.

1171 D. The Board shall, by regulation or written order:

1172 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
1173 initial hearing;

1174 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
1175 of suspension may be accepted for a first offense occurring within three years immediately preceding the
1176 date of the violation;

1177 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
1178 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
1179 its employees marijuana seller training certified in advance by the Board;

1180 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
1181 license and the civil charge acceptable in lieu of such suspension; and

1182 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
1183 licensee has had no prior violations within five years immediately preceding the date of the violation. No
1184 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
1185 subtitle or Board regulations.

1186 **§ 4.1-904. Suspension or revocation; disposition of retail marijuana or retail marijuana**
1187 **products on hand; termination.**

1188 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
1189 any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1190 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana
1191 products upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the
1192 Board; or

1193 2. Destroyed by the Board or its designee.

1194 B. All retail marijuana or retail marijuana products owned by or in the possession of any person
1195 whose license is suspended or revoked shall be disposed of by such person in accordance with the
1196 provisions of this section within 60 days from the date of such suspension or revocation.

1197 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
1198 persons whose licenses have been terminated other than by suspension or revocation may be disposed of
1199 in accordance with subsection A within such time as the Board deems proper. Such period shall not be
1200 less than 60 days.

1201 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of
1202 any person described in subsection A or C after the expiration of such period shall be deemed contraband
1203 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-1304.

1204 **CHAPTER 10.**

1205 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

1206 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

1207 A. Every person intending to apply for any license authorized by this subtitle shall file with the
1208 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
1209 and affirming that all of the information contained therein is true.

1210 B. Such applications shall include any information necessary for the Board to determine whether
1211 the applicant meets the criteria set forth in subdivision B 13 of § 4.1-606, which the Board may consider,
1212 along with other relevant factors, when determining whether to grant the application.

1213 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by
1214 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
1215 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
1216 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
1217 pending application or inspection, such license shall authorize the licensee to purchase retail marijuana,
1218 retail marijuana products, immature marijuana plants, or marijuana seeds in accordance with the
1219 provisions of this subtitle; however, the licensee shall not sell retail marijuana, retail marijuana products,
1220 immature marijuana plants, or marijuana seeds until an inspection is completed.

1221 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his
1222 application with the Board on the front door of the building, place, or room where he proposes to engage
1223 in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and
1224 contain such information as required by the Board, including a statement that any objections shall be
1225 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
1226 this subsection.

1227 The applicant shall also cause notice to be published at least once a week for two consecutive
1228 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
1229 such applicant proposes to engage in such business. Such notice shall contain such information as required
1230 by the Board, including a statement that any objections to the issuance of the license be submitted to the
1231 Board not later than 30 days from the date of the initial newspaper publication.

1232 E. The Board shall conduct a background investigation, to include a criminal history records
1233 search, which may include a fingerprint-based national criminal history records search, on each applicant

1234 for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history
1235 records search and completed personal data form for officers, directors, nonmanaging members, or limited
1236 partners of any applicant corporation, limited liability company, or limited partnership. In considering
1237 criminal history record information, the Board shall not disqualify an applicant because of a past
1238 conviction for a marijuana-related offense.

1239 F. The Board shall notify the local governing body of each license application through the town
1240 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
1241 shall submit objections to the granting of a license within 30 days of the filing of the application.

1242 G. Each applicant shall pay the required application fee at the time the application is filed. The
1243 license application fee shall be determined by the Board and shall be in addition to the actual cost charged
1244 to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records
1245 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
1246 Criminal Records Exchange for each criminal history records search required by the Board. Application
1247 fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

1248 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
1249 all licensees shall file and maintain with the Board a current, accurate record of the information required
1250 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1251 accordance with Board regulations.

1252 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
1253 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1254 Commonwealth as otherwise provided by law.

1255 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
1256 for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
1257 and multiplied by the number of months for which the permit is granted.

1258 J. The Board shall have the authority to increase state license fees. The Board shall set the amount
1259 of such increases on the basis of the consumer price index and shall not increase fees more than once every
1260 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all

1261 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
1262 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
1263 provided on or before November 1 in any year in which the Board has decided to increase state license
1264 fees, and such increases shall become effective July 1 of the following year.

1265 **§ 4.1-1001. Fees for state licenses.**

1266 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
1267 the costs of regulating the marijuana establishment.

1268 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
1269 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
1270 the number of months in the license period, and then increased by five percent. Such fee shall not be
1271 refundable, except as provided in § 4.1-1002.

1272 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
1273 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
1274 subtitle, shall be liable to state merchants' license taxation and other state taxation.

1275 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
1276 purchased in person from the Board if such license is available for purchase online.

1277 E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service
1278 disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as
1279 those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and Supplier
1280 Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located in a
1281 historically economically disadvantaged community, as defined in § 56-576.

1282 **§ 4.1-1002. Refund of state license fee.**

1283 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
1284 amounts collected through erroneous assessments or collected as fees on licenses applications that are
1285 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
1286 subsequently merged or changed into another license during the same license period. No refund shall be

1287 made of any such amount, however, unless made within three years from the date of collection of the
1288 same.

1289 B. In any case where a licensee has changed its name or form of organization during a license
1290 period without any change being made in its ownership, and because of such change is required to pay an
1291 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
1292 paid in excess of the required license fee for such period.

1293 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
1294 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the
1295 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
1296 similar natural disaster or phenomenon.

1297 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
1298 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1299 **§ 4.1-1003. Marijuana tax; exceptions.**

1300 A. A tax of 12 percent is levied on the sale in the Commonwealth of any retail marijuana, retail
1301 marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and
1302 non-retail marijuana products. The tax shall be in lieu of any tax imposed under the Virginia Retail Sales
1303 and Use Tax Act (§ 58.1-600 et seq.) or any other provision of state or local law.

1304 B. The tax shall not apply to any sale:

1305 1. From a marijuana establishment to another marijuana establishment.

1306 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1307 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§
1308 3.2-4112 et seq.) of Title 3.2.

1309 4. Of a hemp product or regulated hemp product.

1310 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
1311 4.1-614.

1312 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1313 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All
1314 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not
1315 be liable for collecting or remitting the taxes or filing a return.

1316 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall
1317 file a return under oath with the Authority and pay any taxes due. Upon written application by a person
1318 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the
1319 calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the
1320 accrual of any interest or penalties under § 4.1-1007.

1321 C. The Authority may accept payment by any commercially acceptable means, including cash,
1322 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
1323 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

1324 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
1325 card, or automated clearinghouse transfer information and use such information for future payments of
1326 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
1327 payments made under this subsection. The Authority may procure the services of a third-party vendor for
1328 the secure storage of information collected pursuant to this subsection.

1329 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the
1330 business, such person shall make a final return and payment within 15 days after the date of selling or
1331 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase
1332 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner
1333 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or
1334 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as
1335 provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties
1336 due and unpaid on account of the operation of the business by any former owner.

1337 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a
1338 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under
1339 § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1206 and 4.1-1207.

1340 **§ 4.1-1005. Bonds.**

1341 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
1342 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety
1343 as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become
1344 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with
1345 the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold
1346 by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to
1347 do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the
1348 surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

1349 **§ 4.1-1006. Refunds.**

1350 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
1351 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise
1352 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii)
1353 destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the
1354 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,
1355 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund
1356 payment from the state treasury to such extent as may be proper.

1357 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
1358 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
1359 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
1360 extent as may be proper.

1361 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
1362 1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
1363 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax
1364 so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller
1365 after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct
1366 the same in submitting his return.

1367 § 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and
1368 penalties.

1369 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which
1370 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the
1371 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
1372 collection of such taxes may be begun without assessment, at any time within six years from such date.
1373 The Authority shall not examine any person's records beyond the three-year period of limitations unless
1374 it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to
1375 file a return and failed to do so.

1376 B. If any person fails to file a return as required by this section, or files a return that is false or
1377 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
1378 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
1379 days' notice requiring such person to provide any records as it may require relating to the business of such
1380 person for the taxable period. The Authority may require such person or the agents and employees of such
1381 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
1382 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
1383 required return, refuses to provide required records, or refuses to answer interrogatories from the
1384 Authority, the Authority may make an estimated assessment based upon the information available to it
1385 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
1386 The estimated assessment shall be deemed prima facie correct.

1387 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
1388 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
1389 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
1390 the person's place of business is located or in which the person resides. If the person has no place of
1391 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
1392 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
1393 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment

1394 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
1395 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
1396 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
1397 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
1398 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
1399 in those instances where the Authority determines that the collection of any tax, penalties, or interest
1400 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
1401 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
1402 to the person at his last known address.

1403 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
1404 appeal under § 4.1-1008.

1405 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
1406 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
1407 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
1408 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or
1409 satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias
1410 to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior
1411 approval of the Authority. In the event that the person against whom the distraint has been applied
1412 subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount
1413 of liability in lieu of payment until the appeal is resolved.

1414 4. A person may petition the Authority after a memorandum of lien has been filed under this
1415 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination
1416 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
1417 certificate of release of the lien within seven days after such determination is made.

1418 **§ 4.1-1008. Appeals.**

1419 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the
1420 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1206 or 4.1-1207 shall be subject to

1421 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
1422 evidential record of the proceedings provided by the Authority in accordance with the Administrative
1423 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
1424 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
1425 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
1426 any such case.

1427 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
1428 **or older lawful; penalties.**

1429 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
1430 person 21 years of age or older may lawfully possess on his person or in any public place not more than
1431 ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as
1432 determined by regulation promulgated by the Board.

1433 B. Any person who possesses on his person or in any public place marijuana or marijuana products
1434 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except
1435 as otherwise provided in this section. The penalty for any violations of this section by an adult shall be
1436 prepayable according to the procedures in § 16.1-69.40:2.

1437 C. With the exception of possession by a person in his residence or possession by a licensee in the
1438 course of his duties related to such licensee's marijuana establishment, any person who possesses on his
1439 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an
1440 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty
1441 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more
1442 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation
1443 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one
1444 year nor more than 10 years and a fine of not more than \$250,000, or both.

1445 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
1446 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as

1447 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
1448 necessary for the performance of their duties.

1449 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1450 A. ~~Notwithstanding the provisions of subdivision (c) of § 18.2-248.1, a~~ A person 21 years of age
1451 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
1452 no point shall a household contain more than four marijuana plants. For purposes of this section, a
1453 "household" means those individuals, whether related or not, who live in the same house or other place of
1454 residence.

1455 A person may only cultivate marijuana plants pursuant to this section at such person's main place
1456 of residence.

1457 A violation of this subsection shall be punishable as follows:

1458 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
1459 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class
1460 2 misdemeanor for a third and any subsequent offense;

1461 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1462 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1463 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
1464 imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or
1465 both.

1466 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1467 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,
1468 binoculars, or other optical aids;

1469 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1470 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
1471 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
1472 under this section.

1473 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The
1474 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §
1475 16.1-69.40:2.

1476 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The
1477 owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to
1478 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land. A
1479 violation of this subsection is punishable as a Class 1 misdemeanor.

1480 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana**
1481 **products; conspiracy; penalties.**

1482 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or
1483 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
1484 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1485 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1486 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
1487 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such
1488 conspiracy is guilty of a Class 6 felony.

1489 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1490 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
1491 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
1492 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
1493 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
1494 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods
1495 or services.

1496 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
1497 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
1498 subsection C, he is guilty of a Class 2 misdemeanor.

1499 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1500 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
1501 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1502 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of**
1503 **legal age; penalties.**

1504 A. No person shall, except pursuant to § 4.1-700, sell, give, or distribute any marijuana or
1505 marijuana products to any individual when at the time of such sale he knows or has reason to believe that
1506 the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person
1507 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1508 B. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,
1509 marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this
1510 subsection is guilty of a Class 1 misdemeanor.

1511 C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication
1512 any advertisement, knowing or under circumstances where one reasonably should know, that the purpose
1513 of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons
1514 younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

1515 D. Any person who sells, except pursuant to § 4.1-700, any marijuana or marijuana products to an
1516 individual who is younger than 21 years of age and at the time of the sale does not require the individual
1517 to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty
1518 of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or
1519 reasonably appears to be an unexpired driver's license issued by any state of the United States or the
1520 District of Columbia, military identification card, United States passport or foreign government visa,
1521 unexpired special identification card issued by the Department of Motor Vehicles, or any other valid
1522 government-issued identification card bearing the individual's photograph, signature, height, weight, and
1523 date of birth, or which bears a photograph that reasonably appears to match the appearance of the
1524 purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
1525 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3
1526 misdemeanor.

1527 E. No person shall be convicted of both subsections A and D for the same sale.

1528 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
1529 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1530 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
1531 § 4.1-1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any
1532 marijuana or marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-
1533 enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the
1534 performance of his duties. Such person may be prosecuted either in the county or city in which the
1535 marijuana or marijuana products were possessed or consumed or in the county or city in which the person
1536 exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

1537 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
1538 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
1539 if available, that in the opinion of the court best suits the needs of the accused.

1540 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
1541 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
1542 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
1543 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-
1544 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1545 D. Any such substance abuse treatment or education program to which a juvenile is ordered
1546 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
1547 Health and Developmental Services or (ii) a similar program available through a facility or program
1548 operated by or under contract with the Department of Juvenile Justice or a locally operated court services
1549 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et
1550 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or
1551 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of
1552 Behavioral Health and Developmental Services or (b) a program or services made available through a
1553 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of

1554 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local
1555 community-based probation services agency, the local community-based probation services agency shall
1556 be responsible for providing for services or referring the offender to education or treatment services as a
1557 condition of probation.

1558 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
1559 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
1560 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
1561 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
1562 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
1563 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
1564 certificate, or student identification card of another person in order to establish a false identification or
1565 false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail
1566 marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1
1567 misdemeanor.

1568 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
1569 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1570 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
1571 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
1572 immunity from an administrative penalty for a violation of § 4.1-1104.

1573 **§ 4.1-1106. Purchasing retail marijuana or retail marijuana products for one to whom they**
1574 **may not be sold; penalties; forfeiture.**

1575 A. Any person who purchases retail marijuana or retail marijuana products for another person and
1576 at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana
1577 or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1578 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
1579 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
1580 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when

1581 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
1582 Class 1 misdemeanor.

1583 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
1584 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1585 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana**
1586 **products; penalty.**

1587 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
1588 Commonwealth.

1589 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1590 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1591 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
1592 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
1593 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
1594 common nuisances.

1595 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
1596 nuisance.

1597 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1598 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
1599 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305
1600 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,
1601 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving
1602 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that
1603 the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a
1604 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as
1605 provided in § 4.1-1305.

1606 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
1607 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
1608 had the right, because of such unlawful use, to enter and repossess the property.

1609 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1610 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
1611 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
1612 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
1613 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
1614 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
1615 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
1616 felony.

1617 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1618 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
1619 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
1620 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
1621 to hold and conduct such hearing.

1622 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1623 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1624 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
1625 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
1626 correctional center any marijuana or marijuana products.

1627 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1628 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1629 A. No person shall separate plant resin by butane extraction or another method that utilizes a
1630 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
1631 the curtilage of any residential structure.

1632 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1633 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1634 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
1635 in doing, or attempting to do, any of the things prohibited by this subtitle.

1636 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court
1637 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
1638 as if the defendant were solely guilty of such violation.

1639 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1640 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in
1641 the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be
1642 proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under
1643 this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such
1644 violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this
1645 section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed
1646 pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the
1647 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1648 CHAPTER 12.

1649 PROHIBITED PRACTICES BY LICENSEES.

1650 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1651 A. No licensee or any agent or employee of such licensee shall:

1652 1. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products of a
1653 kind other than that which such license or this subtitle authorizes him to cultivate, process, transport, sell,
1654 or test;

1655 2. Sell retail marijuana or retail marijuana products to any person other than a person to whom
1656 such license or this subtitle authorizes him to sell;

1657 3. Cultivate, process, transport, sell, or test retail marijuana or retail marijuana products that such
1658 license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or
1659 this subtitle authorizes him to cultivate, process, transport, sell, or test;

1660 4. Cultivate, process, transport, sell, or test any retail marijuana or retail marijuana products when
1661 forbidden by this subtitle;

1662 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana
1663 or retail marijuana products other than that which he is authorized to cultivate, process, transport, sell, or
1664 test by such license or by this subtitle;

1665 6. Keep any retail marijuana or retail marijuana product other than in the container in which it was
1666 purchased by him; or

1667 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

1668 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1669 **§ 4.1-1201. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

1670 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
1671 employee shall consume any retail marijuana or retail marijuana products while on duty and in a position
1672 that is involved in the selling of retail marijuana or retail marijuana products to consumers.

1673 B. No retail marijuana store licensee or his agent or employee shall make any gift of any retail
1674 marijuana or retail marijuana products.

1675 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
1676 amount not to exceed \$500.

1677 **§ 4.1-1202. Sale of; purchase for resale; retail marijuana or retail marijuana products from**
1678 **a person without a license; penalty.**

1679 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
1680 resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
1681 seeds purchased from anyone other than a marijuana cultivation facility or marijuana processing facility.

1682 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1683 **§ 4.1-1203. Prohibiting transfer of retail marijuana or retail marijuana products by**
1684 **licensees; penalty.**

1685 A. No licensed marijuana establishment shall transfer any retail marijuana or retail marijuana
1686 products from one licensed place of business to another licensed place of business unless such transfer is
1687 completed by a marijuana transporter licensee.

1688 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1689 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1690 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
1691 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
1692 decorations under circumstances prohibited by this title or Board regulations.

1693 Any person found by the Board to have violated this section shall be subject to a civil penalty as
1694 authorized in § 4.1-903.

1695 **§ 4.1-1205. Solicitation by persons interested in cultivation, etc., of retail marijuana or retail**
1696 **marijuana products; penalty.**

1697 A. No person having any interest, direct or indirect, in the cultivation, processing, distribution, or
1698 sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon
1699 such conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store
1700 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in
1701 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail
1702 marijuana products in which such person may be so interested.

1703 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
1704 the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful
1705 solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana
1706 or retail marijuana products cultivated, processed, or distributed by either the employer or principal of
1707 such solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may
1708 impose a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

1709 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1710 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
1711 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
1712 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

1713 The Board may suspend or revoke the license granted to such licensee or may impose a civil
1714 penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

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

1716 **§ 4.1-1206. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
1717 **accounts or to allow examination and inspection; penalty.**

1718 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
1719 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)
1720 allow such records, invoices, and accounts or his place of business to be examined and inspected in
1721 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
1722 misdemeanor.

1723 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
1724 may suspend or revoke any license of such licensee that was issued by the Authority.

1725 **§ 4.1-1207. Nonpayment of marijuana tax; penalties.**

1726 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due
1727 under § 4.1-1003. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any
1728 retail marijuana or retail marijuana products on which such retailer has reason to know such tax has not
1729 been paid and may not be paid. Any person convicted of a violation of this subsection is guilty of a Class
1730 1 misdemeanor.

1731 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
1732 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not
1733 more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during
1734 which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1735 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
1736 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50

1737 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
1738 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
1739 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
1740 actual amount.

1741 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the
1742 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount
1743 due within five days after the Authority gives it notice that such check was returned unpaid, the person
1744 that tendered the check is guilty of a violation of § 18.2-182.1.

1745 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
1746 manner as if they were a part of the tax imposed.

1747 **§ 4.1-1300. Enjoining nuisances.**

1748 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
1749 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
1750 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
1751 nuisance.

1752 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
1753 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
1754 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house,
1755 building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction
1756 shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the
1757 owners and tenants and their agents and employees, and any person connected with such house, building,
1758 or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing,
1759 giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain
1760 all persons from removing any marijuana or marijuana products then on such premises until the further
1761 order of the court. If the court is satisfied that the material allegations of the bill are true, although the
1762 premises complained of may not then be unlawfully used, it shall continue the injunction against such

1763 place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is
1764 shown for dissolution.

1765 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**
1766 **forfeiture.**

1767 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,
1768 all marijuana or marijuana products and materials used in their manufacture or processing, and all
1769 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or in
1770 any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described
1771 in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person
1772 is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of
1773 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other
1774 beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the
1775 immediate vicinity of any place where marijuana or marijuana products are being unlawfully
1776 manufactured or processed and where such animal or vehicle is being used to aid in the unlawful
1777 manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

1778 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
1779 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with
1780 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1781 **§ 4.1-1303. Search warrants.**

1782 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
1783 manufactured, processed, sold, kept, stored, or in any manner held, used, or concealed in a particular
1784 house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue
1785 criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such
1786 belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such
1787 warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with
1788 the laws of the Commonwealth pertaining to search warrants.

1789 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or
1790 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or
1791 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they
1792 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,
1793 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
1794 transported contrary to law.

1795 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

1796 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
1797 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1798 B. Whenever any article declared contraband under the provisions of this subtitle and required to
1799 be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with
1800 the enforcement of this subtitle, he shall produce the contraband article and any person in whose
1801 possession it was found. In those cases where no person is found in possession of such articles, the return
1802 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the
1803 articles were found, or if there is no door, then in any conspicuous place upon the premises.

1804 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
1805 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
1806 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
1807 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
1808 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
1809 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
1810 and the materials remaining after such destruction. The report shall include a statement that, from facts
1811 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
1812 up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that
1813 it was impracticable to remove such apparatus to a place of safe storage.

1814 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
1815 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof

1816 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or
1817 any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness,
1818 and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the
1819 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and
1820 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness
1821 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful
1822 cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in
1823 violation of this subtitle.

1824 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than
1825 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on
1826 such return to determine whether or not the articles seized, or any part thereof, were used or in any manner
1827 kept, stored, or possessed in violation of this subtitle.

1828 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
1829 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
1830 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
1831 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
1832 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
1833 determine the validity of such claim.

1834 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
1835 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
1836 not be a bar to any prosecution under any other provision of this subtitle.

1837 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with
1838 this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales
1839 shall be paid into the Literary Fund.

1840 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
1841 Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose
1842 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall

1843 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
1844 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
1845 date when given and shall be kept in the offices of the Board.

1846 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

1847 A. When any officer charged with the enforcement of the cannabis control laws of the
1848 Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally acquired,
1849 or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water,
1850 except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car or a
1851 steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search
1852 such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail
1853 marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-
1854 half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail
1855 marijuana product are found, the officer shall seize the retail marijuana or retail marijuana product, seize
1856 and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer
1857 of the locality in which such seizure was made, taking his receipt therefor in duplicate.

1858 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the
1859 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

1860 **§ 4.1-1306. Contraband retail marijuana or retail marijuana products.**

1861 Retail marijuana or retail marijuana products seized pursuant to § 4.1-1305 shall be deemed
1862 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other
1863 indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail
1864 marijuana products within the Commonwealth when other Board regulations applicable to such
1865 transportation have been complied with shall not be cause for deeming such retail marijuana or retail
1866 marijuana products contraband.

1867 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

1868 A. Any person convicted of a misdemeanor under the provisions of this subtitle without
1869 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
1870 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

1871 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
1872 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
1873 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
1874 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one
1875 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
1876 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
1877 months. If any such bond required by a court is not given during the term of the court by which conviction
1878 is had, it may be given before any judge or before the clerk of such court.

1879 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or
1880 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

1881 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
1882 assistant has been notified that such a case is pending.

1883 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

1884 No person shall be excused from testifying for the Commonwealth as to any offense committed
1885 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given
1886 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
1887 used against him and he shall not be prosecuted for the offense to which he testifies.

1888 **§ 4.1-1309. Previous convictions.**

1889 In any indictment, information, or warrant charging any person with a violation of any provision
1890 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
1891 such person has been previously convicted of a violation of this subtitle.

1892 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1893 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
1894 or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts

1895 therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements
1896 of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of
1897 the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the
1898 accused or any party in interest, the court may require the forensic scientist making the analysis to appear
1899 as a witness and be subject to cross-examination, provided such motion is made within a reasonable time
1900 prior to the day on which the case is set for trial.

1901 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

1902 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
1903 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana
1904 content of the container. Nothing shall preclude the introduction of other relevant evidence to establish
1905 the marijuana content of a container, whether sealed or not.

1906 **§ 4.1-1312. No recovery for retail marijuana or retail marijuana products illegally sold.**

1907 No action to recover the price of any retail marijuana or retail marijuana products sold in
1908 contravention of this subtitle may be maintained.

1909 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1910 The Board shall establish a testing program for marijuana and marijuana products. Except as
1911 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,
1912 prior to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another
1913 licensee, to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed
1914 10 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that
1915 the retail marijuana or retail marijuana product does not exceed the maximum level of allowable
1916 contamination for any contaminant that is injurious to health and for which testing is required and to
1917 ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to
1918 this section; (ii) establishing acceptable testing and research practices, including regulations relating to
1919 testing practices, methods, and standards; quality control analysis; equipment certification and calibration;
1920 marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused,
1921 and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the

1922 types of contaminants that are injurious to health for which retail marijuana and retail marijuana products
1923 shall be tested under this subtitle; and (iv) establishing the maximum level of allowable contamination for
1924 each contaminant.

1925 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not**
1926 **required; required destruction; random testing.**

1927 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
1928 or to another licensee under this subtitle unless a representative sample of the retail marijuana or retail
1929 marijuana product has been tested pursuant to this subtitle and the regulations adopted pursuant to this
1930 subtitle and the mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product
1931 does not exceed the maximum level of allowable contamination for any contaminant that is injurious to
1932 health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana
1933 product is correct.

1934 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall
1935 include testing for:

1936 1. Residual solvents, poisons, and toxins;

1937 2. Harmful chemicals;

1938 3. Dangerous molds and mildew;

1939 4. Harmful microbes, including Escherichia coli and Salmonella;

1940 5. Pesticides, fungicides, and insecticides; and

1941 6. Tetrahydrocannabinol potency, homogeneity, and cannabinoid profiles to ensure correct
1942 labeling.

1943 Testing shall be performed on the final form in which the retail marijuana or retail marijuana
1944 product will be consumed.

1945 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
1946 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the
1947 marijuana testing facility, and the results of the mandatory test.

1948 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
1949 marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or
1950 contamination for any contaminant that is injurious to health and for which testing is required, the
1951 marijuana testing facility shall immediately quarantine, document, and properly destroy the retail
1952 marijuana or retail marijuana product and within seven days of completing the test shall notify the Board
1953 of the test results.

1954 A marijuana testing facility is not required to notify the Board of the results of any test:

1955 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant
1956 to this section that demonstrates that the retail marijuana or retail marijuana product does not exceed the
1957 maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious
1958 to health and for which testing is required;

1959 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for
1960 research and development purposes only, so long as the licensee notifies the marijuana testing facility
1961 prior to the performance of the test that the testing is for research and development purposes only; or

1962 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
1963 not a licensee.

1964 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
1965 licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in
1966 accordance with this subtitle and regulations adopted pursuant to this subtitle if the following conditions
1967 are met:

1968 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
1969 with this subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and
1970 the testing demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum
1971 level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health
1972 and for which testing is required;

1973 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana
1974 product are documented in accordance with the requirements of this subtitle and all applicable regulations
1975 adopted pursuant to this subtitle;

1976 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
1977 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product
1978 to another licensee or to a consumer can be easily identified; and

1979 4. The retail marijuana or retail marijuana product has not undergone any further processing,
1980 manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

1981 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
1982 marijuana products whose testing samples indicate noncompliance with the health and safety standards
1983 required by this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial
1984 measures can bring the retail marijuana or retail marijuana product into compliance with such required
1985 health and safety standards.

1986 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana
1987 products for the purpose of random testing by a state-owned laboratory or state-approved private
1988 laboratory.

1989 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

1990 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
1991 consumer shall be labeled with the following information:

1992 1. Identification of the type of retail marijuana or retail marijuana product and the date of
1993 cultivation, processing, and packaging;

1994 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and
1995 the retail marijuana store where the retail marijuana or retail marijuana product was cultivated, processed,
1996 and offered for sale, as applicable;

1997 3. A statement of the net weight of the retail marijuana or retail marijuana product;

1998 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
1999 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid

2000 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains
2001 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the
2002 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and
2003 (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

2004 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

2005 6. Instructions on usage, including information regarding the amount of retail marijuana or retail
2006 marijuana product that constitutes a single serving;

2007 7. A recommended use by date or expiration date;

2008 8. For retail marijuana and retail marijuana products, the following statement, prominently
2009 displayed in bold print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS
2010 PACKAGE CONTAINS MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA
2011 MAY ONLY BE SOLD TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT
2012 OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
2013 YOUR ABILITY TO DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE
2014 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT
2015 (website maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

2016 9. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail
2017 marijuana products;

2018 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
2019 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the
2020 batch from which the substance originates; and

2021 11. Any other information required by Board regulations.

2022 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
2023 consumer in accordance with the provisions of this subtitle shall be packaged in the following manner:

2024 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-
2025 evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer
2026 in child-resistant, tamper-evident, and resealable packaging that is opaque;

2027 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
2028 component; and

2029 3. Packaging shall comply with any other requirements imposed by Board regulations.

2030 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
2031 consumer in accordance with the provisions of this subtitle shall not:

2032 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise
2033 be labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other
2034 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or
2035 distributor of a product intended for human consumption other than the manufacturer, processor, packer,
2036 or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise
2037 be packaged or labeled in violation of a federal trademark law or regulation;

2038 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
2039 of age;

2040 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2041 4. Be labeled or packaged using a false or misleading label;

2042 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a
2043 human, animal, vehicle, or fruit; and

2044 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
2045 by Board regulations.

2046 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**
2047 **retail marijuana products deemed applicable by the Authority; health and safety regulations.**

2048 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
2049 retail marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee
2050 to a consumer:

2051 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2052 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2053 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
2054 the product being homogeneous throughout the product or throughout each element of the product that
2055 has a cannabinoid content;

2056 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
2057 concentrate within the product being homogeneous throughout the product or throughout each element of
2058 the product that contains marijuana concentrate;

2059 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2060 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product
2061 and shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2062 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
2063 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
2064 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
2065 than 21 years of age; and

2066 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
2067 the trademarked product is used as a component of or ingredient in the edible marijuana product and the
2068 edible marijuana product is not advertised or described for sale as containing the trademarked product.

2069 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations
2070 that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by
2071 a licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection
2072 shall establish mandatory health and safety standards applicable to the cultivation of retail marijuana, the
2073 processing and manufacture of retail marijuana products, and the packaging and labeling of retail
2074 marijuana and retail marijuana products sold by a licensee to a consumer. Such regulations shall address:

2075 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
2076 marijuana products by licensees;

2077 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing
2078 and manufacture of retail marijuana and retail marijuana products; and

2079 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
2080 stores.

2081 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2082 A. A practitioner in the course of his professional practice may issue a written certification for the
2083 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
2084 determined by the practitioner to benefit from such use. The practitioner shall use his professional
2085 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
2086 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
2087 time interactive audiovisual technology. No practitioner may issue a written certification while such
2088 practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A
2089 pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to
2090 patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis
2091 to a minor, the written certification shall specifically authorize such dispensing. If not specifically included
2092 on the initial written certification, authorization for botanical cannabis may be communicated verbally or
2093 in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall
2094 not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor,
2095 cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis
2096 dispensing facility, or provider of paraphernalia, excluding information on products or educational
2097 materials on the benefits and risks of cannabis products.

2098 B. The written certification shall be on a form provided by the Authority. Such written certification
2099 shall contain the name, address, and telephone number of the practitioner, the name and address of the
2100 patient issued the written certification, the date on which the written certification was made, and the
2101 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
2102 subsection A shall expire one year after its issuance unless the practitioner provides in such written
2103 certification an earlier expiration. A written certification shall not be issued to a patient by more than one
2104 practitioner during any given time period.

2105 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
2106 ~~248 or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or
2107 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification
2108 issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional
2109 licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical
2110 condition or otherwise violating the applicable standard of care for evaluating or treating medical
2111 conditions.

2112 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall
2113 hold sufficient education and training to exercise appropriate professional judgment in the certification of
2114 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian,
2115 or registered agent that is contingent on or encourages the person's decision to use a particular
2116 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family
2117 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than
2118 those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
2119 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients
2120 to whom a practitioner may issue a written certification. The Board may report information to the
2121 applicable licensing board on unusual patterns of certifications issued by a practitioner.

2122 E. No patient shall be required to physically present the written certification after the initial
2123 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
2124 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
2125 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
2126 shall electronically transmit on a monthly basis all new written certifications received by the
2127 pharmaceutical processor or cannabis dispensing facility to the Authority.

2128 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
2129 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
2130 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
2131 register with the Board unless the individual's name listed on the patient's written certification. An

2132 individual may, on the basis of medical need and in the discretion of the patient's registered practitioner,
2133 be listed on the patient's written certification upon the patient's request. The Board may set a limit on the
2134 number of patients for whom any individual is authorized to act as a registered agent.

2135 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
2136 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility
2137 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
2138 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
2139 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
2140 to the patient or resident as necessary.

2141 H. Information obtained under the patient certification or agent registration process shall be
2142 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information
2143 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the
2144 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)
2145 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a
2146 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents,
2147 for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained
2148 by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a
2149 patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2150 **§ 4.1-1604. Criminal liability; exceptions.**

2151 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
2152 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248,~~18.2-248.1~~, or 18.2-250 for possession or
2153 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
2154 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
2155 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
2156 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
2157 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally

2158 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
2159 regulations.

2160 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
2161 **operation.**

2162 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the
2163 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any
2164 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a
2165 state correctional facility not less than one nor more than five years, or, in the discretion of the court or
2166 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
2167 both such fine and imprisonment.

2168 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
2169 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the
2170 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
2171 any person or property, ~~shall be~~ is guilty of a misdemeanor.

2172 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2173 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
2174 provided in § 4.1-600.

2175 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
2176 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
2177 any state law or regulation solely for providing such a financial service or for further investing any income
2178 derived from such a financial service.

2179 C. Nothing in this section shall require a bank or credit union to provide financial services to a
2180 licensed marijuana establishment.

2181 **§ 9.1-1101. Powers and duties of the Department.**

2182 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
2183 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
2184 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,

2185 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
2186 the head of any private police department that has been designated as a criminal justice agency by the
2187 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
2188 matter. The Department shall provide such services to any federal investigatory agency within available
2189 resources.

2190 B. The Department shall:

2191 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
2192 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
2193 Commonwealth as needed;

2194 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
2195 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2196 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
2197 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
2198 breath; and

2199 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
2200 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-
2201 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall
2202 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall
2203 include the total available THC derived from the sum of the THC and THC-A content.

2204 C. The Department shall have the power and duty to:

2205 1. Receive, administer, and expend all funds and other assistance available for carrying out the
2206 purposes of this chapter;

2207 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
2208 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
2209 United States, units of general local government or combinations thereof in Virginia or other states, and
2210 with agencies and departments of the Commonwealth; and

2211 3. Perform such other acts as may be necessary or convenient for the effective performance of its
2212 duties.

2213 D. The Director may appoint and employ a deputy director and such other personnel as are needed
2214 to carry out the duties and responsibilities conferred by this chapter.

2215 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
2216 **finest; prepayment of local ordinances.**

2217 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
2218 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
2219 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
2220 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
2221 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
2222 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
2223 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
2224 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
2225 as authorized in § 46.2-878.3.

2226 Such infractions shall not include:

2227 1. Indictable offenses;

2228 2. [Repealed.]

2229 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
2230 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
2231 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
2232 or in his custody or control;

2233 4. Reckless driving;

2234 5. Leaving the scene of an accident;

2235 6. Driving while under suspension or revocation of driving privileges;

2236 7. Driving without being licensed to drive.

2237 8. [Repealed.]

2238 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
2239 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
2240 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
2241 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
2242 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
2243 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

2244 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
2245 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
2246 be imposed, designating each infraction specifically. The schedule, which may from time to time be
2247 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
2248 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
2249 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
2250 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
2251 with the provisions of this Code or any rules or regulations promulgated thereunder.

2252 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
2253 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
2254 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
2255 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
2256 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
2257 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
2258 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
2259 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
2260 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
2261 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
2262 provisions of this Code or any rules or regulations promulgated thereunder.

2263 **§ 16.1-260. Intake; petition; investigation.**

2264 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
2265 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2266 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2267 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2268 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
2269 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
2270 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
2271 and file petitions and motions relating to the establishment, modification, or enforcement of support on
2272 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
2273 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
2274 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
2275 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
2276 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf
2277 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
2278 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
2279 shall be referred initially to the local department of social services in accordance with the provisions of
2280 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
2281 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
2282 inquire whether the petitioner is receiving child support services or public assistance. No individual who
2283 is receiving support services or public assistance shall be denied the right to file a petition or motion to
2284 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
2285 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
2286 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.
2287 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner
2288 information on the possible availability of medical assistance through the Family Access to Medical
2289 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of
2290 Medical Assistance Services.

2291 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2292 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2293 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2294 communications and proceedings shall be conducted in the same manner as if the appearance were in
2295 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
2296 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
2297 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
2298 signatures. Any two-way electronic video and audio communication system used for an appearance shall
2299 meet the standards as set forth in subsection B of § 19.2-3.1.

2300 When the court service unit of any court receives a complaint alleging facts which may be
2301 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
2302 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
2303 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
2304 probable cause for the issuance of the petition.

2305 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
2306 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
2307 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
2308 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
2309 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
2310 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
2311 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
2312 that would be a felony if committed by an adult.

2313 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
2314 and the attendance officer has provided documentation to the intake officer that the relevant school
2315 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
2316 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
2317 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated

2318 in need of supervision on more than two occasions for failure to comply with compulsory school
2319 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
2320 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
2321 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
2322 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
2323 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
2324 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
2325 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
2326 appropriate public agency for the purpose of developing a truancy plan using an interagency
2327 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
2328 from the appropriate department of social services, community services board, local school division, court
2329 service unit, and other appropriate and available public and private agencies and may be the family
2330 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
2331 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
2332 shall file the petition.

2333 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
2334 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
2335 plan for the juvenile, which may include restitution, the performance of community service, or on a
2336 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or
2337 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
2338 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
2339 community resources and the circumstances which resulted in the complaint, (B) create an official record
2340 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the
2341 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant
2342 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon
2343 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case
2344 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any

2345 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply
2346 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in
2347 the filing of a petition with the court.

2348 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
2349 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
2350 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
2351 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
2352 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
2353 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,
2354 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
2355 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
2356 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
2357 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
2358 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
2359 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
2360 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
2361 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
2362 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
2363 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-
2364 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
2365 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2366 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
2367 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
2368 need of supervision have utilized or attempted to utilize treatment and services available in the community
2369 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
2370 officer determines that the parties have not attempted to utilize available treatment or services or have not
2371 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the

2372 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
2373 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
2374 the parties have made a reasonable effort to utilize available community treatment or services may he
2375 permit the petition to be filed.

2376 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
2377 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
2378 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
2379 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
2380 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification
2381 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice
2382 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide
2383 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate
2384 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
2385 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
2386 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
2387 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
2388 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
2389 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
2390 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition
2391 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as
2392 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is
2393 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a
2394 magistrate for a warrant.

2395 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
2396 the intake officer shall accept and file a petition founded upon the warrant.

2397 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
2398 which alleges facts of an offense which would be a felony if committed by an adult.

2399 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
 2400 report with the division superintendent of the school division in which any student who is the subject of a
 2401 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
 2402 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
 2403 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
 2404 of the filing of the petition and the nature of the offense, if the violation involves:

- 2405 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
 2406 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;
- 2407 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2408 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 2409 Title 18.2;
- 2410 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2411 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 2412 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2413 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~
 2414 1100 et seq.) ~~of Chapter 7 of Title 18.2 4.1;~~
- 2415 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2416 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2417 9. Robbery pursuant to § 18.2-58;
- 2418 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 2419 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2420 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2421 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2422 14. A threat pursuant to § 18.2-60.

2423 The failure to provide information regarding the school in which the student who is the subject of
 2424 the petition may be enrolled shall not be grounds for refusing to file a petition.

2425 The information provided to a division superintendent pursuant to this section may be disclosed
2426 only as provided in § 16.1-305.2.

2427 H. The filing of a petition shall not be necessary:

2428 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
2429 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
2430 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

2431 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
2432 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
2433 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
2434 accident may be located, proceed on a summons in lieu of filing a petition.

2435 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
2436 H of § 16.1-241.

2437 3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738 or the
2438 commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a
2439 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a
2440 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring
2441 the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be
2442 in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a
2443 violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood
2444 or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through
2445 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate
2446 shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal
2447 guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation
2448 is to be tried. When a violation of § 4.1-305 or 4.1-1104 is charged by summons, the juvenile shall be
2449 entitled to have the charge referred to intake for consideration of informal proceedings pursuant to
2450 subsection B, provided that such right is exercised by written notification to the clerk not later than 10
2451 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the

2452 officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake
 2453 on a form approved by the Supreme Court and make return of such service to the court. If the officer fails
 2454 to make such service or return, the court shall dismiss the summons without prejudice.

2455 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,
 2456 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake
 2457 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation
 2458 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed
 2459 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian
 2460 of the juvenile.

2461 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
 2462 of the jurisdiction granted it in § 16.1-241.

2463 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
 2464 **impact statement.**

2465 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
 2466 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
 2467 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
 2468 violations, the court before final disposition thereof may require an investigation, which (i) shall include
 2469 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
 2470 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
 2471 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
 2472 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
 2473 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
 2474 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
 2475 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if
 2476 committed by an adult, or (c) a violation of § 4.1-1104, the court shall order the juvenile to undergo a drug
 2477 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
 2478 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500

2479 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
2480 individual employed by or currently under contract to such agencies and who is specifically trained to
2481 conduct such assessments under the supervision of such counselor.

2482 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
2483 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
2484 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
2485 physical, psychological, or economic injury as a result of the violation of law.

2486 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
2487 **offenses; truancy.**

2488 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
2489 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
2490 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
2491 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;
2492 (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
2493 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol
2494 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public
2495 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar
2496 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
2497 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
2498 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's
2499 license. In addition to any other penalty authorized by this section, if the offense involves a violation
2500 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court
2501 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
2502 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be
2503 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
2504 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
2505 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or

2506 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by
2507 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's
2508 license shall be delayed for a period of six months following the date he reaches the age of 16 and three
2509 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
2510 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
2511 disposition of the delinquency charge until such time as the court disposes of the case pursuant to
2512 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
2513 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter
2514 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving
2515 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a
2516 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
2517 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
2518 which case the denial of driving privileges shall be for a period of two years unless the offense is
2519 committed by a child under the age of 16 years and three months, in which event the child's ability to
2520 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age
2521 of 16 and three months.

2522 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
2523 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
2524 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
2525 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
2526 of not less than 30 days following the date he reaches the age of 16 and three months.

2527 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
2528 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
2529 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
2530 and three months, as may be appropriate.

2531 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
2532 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

2533 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
2534 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
2535 offense.

2536 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
2537 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
2538 in the physical custody of the court during any period of license denial.

2539 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
2540 which shall preserve a record thereof. The report and the record shall include a statement as to whether
2541 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
2542 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,
2543 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and
2544 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless
2545 the proceeding results in an adjudication of guilt pursuant to subsection F.

2546 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
2547 driver's license until such time as is stipulated in the court order or until notification by the court of
2548 withdrawal of the order of denial under subsection E.

2549 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
2550 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
2551 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
2552 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
2553 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
2554 such terms and conditions as the court may set forth.

2555 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
2556 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
2557 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
2558 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
2559 shall be issued for travel to and from home and school when school-provided transportation is available

2560 and no restricted license shall be issued if the finding as to such child involves a violation designated
2561 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
2562 designated in subsection A, a second finding by the court of failure to comply with school attendance and
2563 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
2564 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
2565 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
2566 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
2567 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
2568 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
2569 is guilty of a violation of § 46.2-301.

2570 E. Upon petition made at least 90 days after issuance of the order, the court may review and
2571 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
2572 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
2573 and withdrawn until one year after its issuance.

2574 F. If the finding as to such child involves a first violation designated under clause (vii) of
2575 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
2576 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
2577 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
2578 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
2579 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
2580 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
2581 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
2582 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
2583 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
2584 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
2585 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

2586 **§ 18.2-46.1. Definitions.**

2587 As used in this article, unless the context requires a different meaning:

2588 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or
2589 subsection A of § 19.2-297.1.

2590 "Criminal street gang" means any ongoing organization, association, or group of three or more
2591 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
2592 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
2593 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
2594 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
2595 which is an act of violence, provided such acts were not part of a common act or transaction.

2596 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
2597 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,
2598 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-
2599 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
2600 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~~
2601 ~~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
2602 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense
2603 under the laws of another state or territory of the United States, the District of Columbia, or the United
2604 States.

2605 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"**
2606 **"imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.**

2607 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used
2608 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
2609 3400 et seq.).

2610 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
2611 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a
2612 controlled substance subject to abuse, and:

2613 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging
2614 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
2615 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
2616 into commerce prior to the initial introduction into commerce of the controlled substance which it is
2617 alleged to imitate; or

2618 2. Which by express or implied representations purports to act like a controlled substance as a
2619 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
2620 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
2621 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2622 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
2623 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
2624 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
2625 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
2626 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
2627 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
2628 and how it is sold to the public.

2629 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
2630 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
2631 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
2632 ~~"Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or~~
2633 ~~cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts~~
2634 ~~of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person~~
2635 ~~registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-~~
2636 ~~4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of~~
2637 ~~Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial~~
2638 ~~hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer,~~

2639 ~~ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into~~
2640 ~~one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.~~

2641 ~~E.~~ The term "counterfeit controlled substance" means a controlled substance that, without
2642 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
2643 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug
2644 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
2645 distributor who did in fact so manufacture, process, pack or distribute such drug.

2646 ~~F.—E.~~ The term "tetrahydrocannabinol" means any naturally occurring or synthetic
2647 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such
2648 salts, isomers, and salts of isomers is possible within the specific chemical designation and any
2649 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
2650 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
2651 geometric isomers.

2652 ~~G.—F.~~ The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
2653 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
2654 tetrahydrocannabinolic acid.

2655 ~~H.—G.~~ The Department of Forensic Science shall determine the proper methods for detecting the
2656 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100
2657 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or
2658 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
2659 tetrahydrocannabinol.

2660 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**
2661 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
2662 **prohibited; penalties.**

2663 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ is unlawful for
2664 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or
2665 distribute a controlled substance or an imitation controlled substance.

2666 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
2667 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
2668 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
2669 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
2670 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
2671 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
2672 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
2673 which over-the-counter substances of like chemical composition sell.

2674 C. Except as provided in subsection C1, any person who violates this section with respect to a
2675 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
2676 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
2677 violation, and it is alleged in the warrant, indictment, or information that the person has been before
2678 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
2679 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
2680 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
2681 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
2682 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
2683 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2684 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
2685 in the warrant, indictment or information that he has been before convicted of two or more such offenses
2686 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
2687 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
2688 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
2689 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
2690 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2691 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
2692 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million

2693 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
2694 imprisonment to be served consecutively with any other sentence:

- 2695 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2696 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 2697 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2698 derivatives of ecgonine or their salts have been removed;
 - 2699 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2700 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2701 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
 - 2702 referred to in subdivisions ~~2a through 2e~~ a, b, and c;
 - 2703 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
2704 that contain cocaine base; or
 - 2705 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
 - 2706 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
 - 2707 salts of its isomers.

2708 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
2709 shall not be applicable if the court finds that:

- 2710 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2711 b. The person did not use violence or credible threats of violence or possess a firearm or other
- 2712 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2713 c. The offense did not result in death or serious bodily injury to any person;
- 2714 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
- 2715 was not engaged in a continuing criminal enterprise as defined in subsection I; and
- 2716 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
- 2717 Commonwealth all information and evidence the person has concerning the offense or offenses that were
- 2718 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
- 2719 relevant or useful other information to provide or that the Commonwealth already is aware of the

2720 information shall not preclude a determination by the court that the defendant has complied with this
2721 requirement.

2722 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
2723 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
2724 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
2725 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
2726 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
2727 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
2728 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
2729 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
2730 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
2731 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
2732 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
2733 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
2734 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
2735 \$500,000.

2736 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
2737 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
2738 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
2739 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
2740 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
2741 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
2742 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
2743 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
2744 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
2745 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that

2746 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
2747 to the guidelines established pursuant to § 32.1-11.7.

2748 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
2749 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
2750 not an inmate in a community correctional facility, local correctional facility or state correctional facility
2751 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
2752 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
2753 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
2754 of a Class 5 felony.

2755 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
2756 prescription of a person authorized under this article to issue the same, which prescription has not been
2757 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
2758 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
2759 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
2760 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
2761 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
2762 misdemeanor.

2763 E1. Any person who violates this section with respect to a controlled substance classified in
2764 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
2765 248.5, ~~shall be~~ is guilty of a Class 5 felony.

2766 E2. Any person who violates this section with respect to a controlled substance classified in
2767 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

2768 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
2769 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
2770 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
2771 who is not an inmate in a community correctional facility, local correctional facility or state correctional
2772 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit

2773 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2774 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
 2775 guilty of a Class 1 misdemeanor.

2776 F. Any person who violates this section with respect to a controlled substance classified in
 2777 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance
 2778 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2779 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
 2780 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
 2781 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
 2782 that the defendant believed the imitation controlled substance to actually be a controlled substance.

2783 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to
 2784 manufacture, sell, give or distribute the following:

- 2785 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2786 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 2787 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2788 derivatives of ecgonine or their salts have been removed;
 - 2789 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2790 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2791 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
 - 2792 substances referred to in subdivisions a ~~through~~, b, and c;
 - 2793 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains
 - 2794 cocaine base; or
 - 2795 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
 - 2796 ~~or~~
 - 2797 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams
 - 2798 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
 - 2799 or salts of its isomers ~~shall be~~ is guilty of a felony 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. Such
2801 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a
2802 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or
2803 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
2804 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
2805 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others
2806 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this
2807 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
2808 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2809 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2810 relevant or useful other information to provide or that the Commonwealth already is aware of the
2811 information shall not preclude a determination by the court that the defendant has complied with this
2812 requirement.

2813 H1. Any person who was the principal or one of several principal administrators, organizers or
2814 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
2815 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
2816 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
2817 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
2818 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
2819 distribute the following during any 12-month period of its existence:

2820 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
2821 detectable amount of heroin;

2822 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
2823 detectable amount of:

2824 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2825 derivatives of ecgonine or their salts have been removed;

2826 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2827 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2828 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
2829 substances referred to in subdivisions a ~~through~~, b, and c;

2830 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
2831 subdivision 2 ~~which~~ that contains cocaine base; or

2832 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
2833 ~~detectable amount of marijuana; or~~

2834 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
2835 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
2836 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

2837 A conviction under this section shall be punishable by a fine of not more than \$1 million and
2838 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2839 H2. Any person who was the principal or one of several principal administrators, organizers or
2840 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
2841 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
2842 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
2843 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess
2844 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
2845 existence:

2846 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
2847 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

2848 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2849 derivatives of ecgonine or their salts have been removed;

2850 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
2851 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2852 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
2853 substances referred to in subdivisions a ~~through~~, b, and c;

2854 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains
2855 cocaine base; or

2856 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~
2857 ~~or~~

2858 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
2859 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
2860 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
2861 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
2862 punishment shall be made to run consecutively with any other sentence. However, the court may impose
2863 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
2864 with law-enforcement authorities.

2865 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
2866 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
2867 is a part of a continuing series of violations of this section which are undertaken by such person in concert
2868 with five or more other persons with respect to whom such person occupies a position of organizer, a
2869 supervisory position, or any other position of management, and from which such person obtains
2870 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or
2871 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
2872 association with any criminal street gang as defined in § 18.2-46.1.

2873 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
2874 any two or more different substances listed below with the intent to manufacture methamphetamine,
2875 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
2876 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
2877 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
2878 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
2879 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
2880 or 2-propanone.

2881 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
2882 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
2883 salts of optical isomers.

2884 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2885 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
2886 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
2887 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
2888 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
2889 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
2890 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
2891 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
2892 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
2893 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
2894 other sentence.

2895 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
2896 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
2897 **costs and fees; violations; discharge.**

2898 Whenever any person who has not previously been convicted of any criminal offense under this
2899 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
2900 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
2901 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
2902 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
2903 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
2904 consent of the accused, may defer further proceedings and place him on probation upon terms and
2905 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
2906 of court has been provided with the fingerprint identification information or fingerprints of the person,

2907 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
2908 photograph of the person be taken by a law-enforcement officer.

2909 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
2910 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
2911 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
2912 based upon consideration of the substance abuse assessment. The program or services may be located in
2913 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
2914 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
2915 Developmental Services, by a similar program which is made available through the Department of
2916 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
2917 (iii) an ASAP program certified by the Commission on VASAP.

2918 The court shall require the person entering such program under the provisions of this section to
2919 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
2920 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
2921 indigent.

2922 As a condition of probation, the court shall require the accused (a) to successfully complete
2923 treatment or education program or services, (b) to remain drug and alcohol free during the period of
2924 probation and submit to such tests during that period as may be necessary and appropriate to determine if
2925 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
2926 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
2927 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
2928 probation agency or personnel of any program or agency approved by the supervising probation agency.

2929 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
2930 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
2931 court has been provided with the fingerprint identification information or fingerprints of such person, the
2932 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under

2933 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
2934 section in subsequent proceedings.

2935 Notwithstanding any other provision of this section, whenever a court places an individual on
2936 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
2937 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
2938 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

2939 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

2940 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
2941 consumption or use of a controlled substance, alcohol, or any combination of such substances.

2942 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
2943 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
2944 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant
2945 to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia
2946 pursuant to § 54.1-3466 if:

2947 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
2948 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
2949 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
2950 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
2951 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
2952 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
2953 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
2954 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
2955 an overdose while another individual seeks or obtains emergency medical attention in accordance with
2956 this subdivision;

2957 2. Such individual remains at the scene of the overdose or at any alternative location to which he
2958 or the person requiring emergency medical attention has been transported until a law-enforcement officer
2959 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose

2960 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
2961 forth herein;

2962 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
2963 the overdose; and

2964 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
2965 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
2966 assistance.

2967 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
2968 medical attention for himself or another individual, to a person experiencing an overdose when another
2969 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
2970 care or assistance to an individual experiencing an overdose while another person seeks or obtains
2971 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
2972 search or a lawful arrest.

2973 D. This section does not establish protection from arrest or prosecution for any individual or
2974 offense other than those listed in subsection B.

2975 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
2976 determined that the person arrested was immune from prosecution under this section.

2977 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

2978 No school nurse employed by a local school board, person employed by a local health department
2979 who is assigned to the public school pursuant to an agreement between the local health department and
2980 the school board, or other person employed by or contracted with a local school board to deliver health-
2981 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~
2982 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
2983 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
2984 who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

2985 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
2986 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

2987 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
2988 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
2989 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
2990 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
2991 patient or resident who has been issued a valid written certification for the use of cannabis oil in
2992 accordance with § 4.1-1601.

2993 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
2994 **Department of Agriculture and Consumer Services, Department of Law employees.**

2995 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
2996 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
2997 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
2998 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
2999 18.2-248,~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial
3000 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
3001 promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

3002 B. No employee of the Department of Agriculture and Consumer Services or of the Department of
3003 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-
3004 248.01,~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance
3005 containing tetrahydrocannabinol when possession of industrial hemp or any substance containing
3006 tetrahydrocannabinol is necessary in the performance of his duties.

3007 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
3008 **testing, and treatment or education.**

3009 The trial judge or court trying the case of any person found guilty of a criminal violation of any
3010 law concerning the use, in any manner, of drugs, controlled substances, narcotics,~~marijuana~~, noxious
3011 chemical substances and like substances shall condition any suspended sentence by first requiring such
3012 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
3013 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing

3014 shall be conducted by the supervising probation agency or by personnel of any program or agency
3015 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
3016 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
3017 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
3018 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
3019 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
3020 Department of Behavioral Health and Developmental Services, by a similar program or services available
3021 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
3022 imposes a sentence of 12 months or less, by a similar program or services available through a local or
3023 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
3024 ASAP program certified by the Commission on VASAP.

3025 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3026 A. Whenever any person who has not previously been convicted of any criminal offense under this
3027 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana,~~
3028 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
3029 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
3030 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious chemical
3031 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
3032 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
3033 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
3034 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
3035 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
3036 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
3037 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
3038 Health and Developmental Services or by a similar program or services available through the Department
3039 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
3040 12 months or less, by a similar program or services available through a local or regional jail, a local

3041 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
3042 certified by the Commission on VASAP.

3043 B. The court trying the case of any person alleged to have committed any criminal offense
3044 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
3045 which the commission of the offense was motivated by or closely related to the use of drugs and
3046 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
3047 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
3048 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
3049 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
3050 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
3051 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
3052 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
3053 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
3054 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
3055 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
3056 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
3057 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3058 to the effect that the confined person has successfully responded to treatment, the court may release such
3059 confined person prior to the termination of the period of time for which such person was confined and
3060 may suspend the remainder of the term upon such conditions as the court may prescribe.

3061 C. The court trying a case in which commission of the criminal offense was related to the
3062 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
3063 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
3064 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
3065 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
3066 Developmental Services, if space is available in such facility, for a period of time not in excess of the
3067 maximum term of imprisonment specified as the penalty for conviction. Confinement under such

3068 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
3069 committed may be convicted of escape if he leaves the place of commitment without authority. The court
3070 may revoke such commitment at any time and transfer the person to an appropriate state or local
3071 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
3072 to the effect that the confined person has successfully responded to treatment, the court may release such
3073 confined person prior to the termination of the period of time for which such person was confined and
3074 may suspend the remainder of the term upon such conditions as the court may prescribe.

3075 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3076 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it
3077 ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
3078 distribute any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~ to any person under 18 years of age
3079 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
3080 distribution of any drug classified in Schedule I, II, III₂ or IV ~~or marijuana~~. Any person violating this
3081 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
3082 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
3083 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
3084 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
3085 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3086 B. It ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally
3087 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
3088 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
3089 controlled substance. Any person violating this provision ~~shall be~~ is guilty of a Class 6 felony.

3090 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**
3091 **in administering controlled substances to minors; penalty.**

3092 It ~~shall be~~ is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
3093 to a minor any book, pamphlet, periodical₂ or other printed matter ~~which~~ that he knows advertises for sale

3094 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
3095 administering, preparing, or growing ~~marijuana~~ or a controlled substance.

3096 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
3097 **penalty.**

3098 A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to
3099 sell, give, or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

3100 1. Upon the property, including buildings and grounds, of any public or private elementary or
3101 secondary school, any institution of higher education, or any clearly marked licensed child day center as
3102 defined in § 22.1-289.02;

3103 2. Upon public property or any property open to public use within 1,000 feet of the property
3104 described in subdivision 1;

3105 3. On any school bus as defined in § 46.2-100;

3106 4. Upon a designated school bus stop, or upon either public property or any property open to public
3107 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
3108 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

3109 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
3110 recreation or community center facility or any public library; or

3111 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
3112 property open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the
3113 provisions of this section if the person possessed the controlled substance, or imitation controlled
3114 substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the
3115 person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, ~~or~~
3116 ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3117 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
3118 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
3119 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
3120 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§

3121 54.1-3400 et seq.) ~~or more than one half ounce of marijuana~~ shall be punished by a mandatory minimum
3122 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
3123 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
3124 individual and not with intent to profit thereby from any consideration received or expected nor to induce
3125 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
3126 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3127 C. If a person commits an act violating the provisions of this section, and the same act also violates
3128 another provision of law that provides for penalties greater than those provided for by this section, then
3129 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
3130 law or the imposition of any penalties provided for thereby.

3131 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3132 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3133 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
3134 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
3135 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
3136 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
3137 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
3138 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
3139 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
3140 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
3141 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3142 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3143 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
3144 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially
3145 altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful
3146 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing
3147 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be

3148 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
3149 of a Class 5 felony.

3150 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**
3151 **fraud, deceit or forgery.**

3152 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
3153 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
3154 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
3155 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
3156 giving of a false address.

3157 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any
3158 information from, or willfully make a false statement in, any prescription, order, report, record, or other
3159 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

3160 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
3161 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued
3162 to another person.

3163 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
3164 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
3165 physician, dentist, veterinarian or other authorized person.

3166 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
3167 or forged written order.

3168 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
3169 containing any controlled substance.

3170 G. This section shall not apply to officers and employees of the United States, of this
3171 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
3172 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
3173 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
3174 investigative, research or analytical purposes and who are acting in the course of their employment;

3175 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
3176 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
3177 representatives file with the Board such information as the Board may deem appropriate.

3178 H. Except as otherwise provided in this subsection, any person who shall violate any provision
3179 herein ~~shall be~~ is guilty of a Class 6 felony.

3180 Whenever any person who has not previously been convicted of any offense under this article or
3181 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
3182 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
3183 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
3184 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
3185 finding of guilt, the court may place him on probation upon terms and conditions.

3186 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
3187 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
3188 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
3189 any other judicial circuit as the court may provide. The services shall be provided by a program certified
3190 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
3191 the person entering such program under the provisions of this section to pay all or part of the costs of the
3192 program, including the costs of the screening, evaluation, testing and education, based upon the person's
3193 ability to pay unless the person is determined by the court to be indigent.

3194 As a condition of supervised probation, the court shall require the accused to remain drug free
3195 during the period of probation and submit to such tests during that period as may be necessary and
3196 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
3197 any screening, evaluation, and education program to which the person is referred or by the supervising
3198 agency.

3199 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
3200 report to the original arresting law-enforcement agency to submit to fingerprinting.

3201 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
 3202 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
 3203 shall find the defendant guilty of a Class 1 misdemeanor.

3204 **§ 18.2-265.1. Definition.**

3205 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
 3206 of any kind which are either designed for use or which are intended by the person charged with violating
 3207 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
 3208 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
 3209 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 3210 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3211 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
 3212 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
 3213 substance can be derived;

3214 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
 3215 producing, processing, or preparing ~~marijuana~~ or controlled substances;

3216 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 3217 or any species of plant ~~which~~ that is a controlled substance;

3218 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 3219 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 3220 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3221 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 3222 controlled substances;

3223 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
 3224 or designed for use in cutting controlled substances;

3225 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
 3226 ~~from, or in otherwise cleaning or refining, marijuana;~~

- 3227 ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
3228 compounding controlled substances;
- 3229 ~~9.~~8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in
3230 packaging small quantities of ~~marijuana~~ or controlled substances;
- 3231 ~~10.~~9. Containers and other objects intended for use or designed for use in storing or concealing
3232 ~~marijuana~~ or controlled substances;
- 3233 ~~11.~~10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
3234 parenterally injecting controlled substances into the human body;
- 3235 ~~12.~~11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
3236 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 3237 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
3238 screens, ~~hashish heads~~, or punctured metal bowls;
- 3239 b. Water pipes;
- 3240 c. Carburetion tubes and devices;
- 3241 d. Smoking and carburetion masks;
- 3242 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that
3243 has become too small or too short to be held in the hand;
- 3244 f. Miniature cocaine spoons, and cocaine vials;
- 3245 g. Chamber pipes;
- 3246 h. Carburetor pipes;
- 3247 i. Electric pipes;
- 3248 j. Air-driven pipes;
- 3249 k. Chillums;
- 3250 l. Bongs;
- 3251 m. Ice pipes or chillers.
- 3252 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3253 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
3254 other relevant evidence, the following:

- 3255 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 3256 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
3257 known to the accused;
- 3258 3. Instructions, oral or written, provided with the object concerning its use;
- 3259 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 3260 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 3261 6. The manner in which the object is displayed for sale;
- 3262 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
3263 a licensed distributor or dealer of tobacco products;
- 3264 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
3265 business enterprise;
- 3266 9. The existence and scope of legitimate uses for the object in the community;
- 3267 10. Expert testimony concerning its use or the purpose for which it was designed; and
- 3268 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
3269 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
3270 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
3271 intended for use or designed for use as drug paraphernalia.

3272 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3273 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3274 circumstances where one reasonably should know, that it is either designed for use or intended by such
3275 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3276 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3277 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class
3278 1 misdemeanor.

3279 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3280 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class
3281 6 felony.

3282 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
3283 ~~shall be~~ is guilty of a Class 1 misdemeanor.

3284 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3285 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
3286 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife
3287 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
3288 is guilty of a Class 4 felony.

3289 **§ 18.2-308.012. Prohibited conduct.**

3290 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
3291 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
3292 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
3293 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
3294 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
3295 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
3296 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
3297 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
3298 apply for a concealed handgun permit for a period of five years.

3299 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
3300 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
3301 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an
3302 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises
3303 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.
3304 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

3305 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3306 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3307 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously
3308 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3309 constitutes a separate and distinct felony.

3310 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
3311 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
3312 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
3313 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be
3314 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
3315 and apart from, and shall be made to run consecutively with, any punishment received for the commission
3316 of the primary felony.

3317 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
3318 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
3319 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
3320 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
3321 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and
3322 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
3323 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
3324 from, and shall be made to run consecutively with, any punishment received for the commission of the
3325 primary felony.

3326 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
3327 **penalties.**

3328 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
3329 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
3330 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
3331 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the

3332 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
3333 6555, he is guilty of a Class 1 misdemeanor.

3334 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
3335 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
3336 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
3337 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
3338 misdemeanor.

3339 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
3340 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,
3341 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
3342 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
3343 ~~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~~
3344 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3345 D. Any person who knowingly and willfully makes any materially false statement or representation
3346 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
3347 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3348 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
3349 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
3350 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
3351 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
3352 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
3353 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
3354 communication knows or should know that he is not free to leave.

3355 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3356 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
3357 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
3358 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the

3359 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled
3360 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana
3361 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver
3362 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
3363 explosives of any nature is guilty of a Class 3 felony.

3364 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3365 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
3366 **authorizing interception of communications.**

3367 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
3368 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
3369 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
3370 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
3371 communications by the Department of State Police, when such interception may reasonably be expected
3372 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
3373 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
3374 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
3375 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
3376 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
3377 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
3378 authorization for the observation or monitoring of the interception by a police department of a county or
3379 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
3380 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

3381 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3382 1. In the case of an application for a wire or electronic interception, a judge of competent
3383 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
3384 cause to believe that an offense was committed, is being committed, or will be committed or the person
3385 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic

3386 communication system, maintain an address or a post office box, or are making the communication within
3387 the territorial jurisdiction of the court.

3388 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
3389 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
3390 offense was committed, is being committed, or will be committed or the physical location of the oral
3391 communication to be intercepted is within the territorial jurisdiction of the court.

3392 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
3393 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
3394 jurisdiction where the order is entered, regardless of the physical location or the method by which the
3395 communication is captured or routed to the monitoring location.

3396 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3397 A. The following officers shall have the powers of arrest as provided in this section:

- 3398 1. Members of the State Police force of the Commonwealth;
- 3399 2. Sheriffs of the various counties and cities, and their deputies;
- 3400 3. Members of any county police force or any duly constituted police force of any city or town of
3401 the Commonwealth;
- 3402 4. The Commissioner, members and employees of the Marine Resources Commission granted the
3403 power of arrest pursuant to § 28.2-900;
- 3404 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3405 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
3406 petty officers authorized under § 29.1-205 to make arrests;
- 3407 7. Conservation officers appointed pursuant to § 10.1-115;
- 3408 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
3409 appointed pursuant to § 46.2-217;
- 3410 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
3411 Control Authority;

3412 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
3413 23.1; and

3414 11. Members of the Division of Capitol Police.

3415 B. Such officers may arrest without a warrant any person who commits any crime in the presence
3416 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
3417 committed a felony not in his presence.

3418 Such officers may arrest without a warrant any person whom the officer has probable cause to
3419 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
3420 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
3421 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
3422 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
3423 officer.

3424 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
3425 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
3426 in such accident has been transported, or in the apprehension of any person charged with the theft of any
3427 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
3428 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
3429 crime has been committed by any person then and there present, apprehend such person without a warrant
3430 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
3431 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
3432 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

3433 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
3434 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
3435 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
3436 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
3437 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
3438 within three hours of the alleged offense, arrest without a warrant at any location any person whom the

3439 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
3440 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3441 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in
3442 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,
3443 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
3444 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
3445 reasonably accurate description of such person wanted and the crime alleged.

3446 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not
3447 committed in his presence when the officer receives a radio message from his department or other law-
3448 enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

3449 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
3450 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
3451 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
3452 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
3453 when such property is located on premises used for business or commercial purposes, or a similar local
3454 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
3455 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
3456 section for a misdemeanor violation involving shoplifting.

3457 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3458 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
3459 19.2-81, persons for crimes involving:

- 3460 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3461 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3462 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or ~~§ 18.2-~~
3463 474.1; and
- 3464 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
3465 or security of the population of a correctional institution.

3466 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3467 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3468 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
3469 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
3470 or any other employee in any local school division in the Commonwealth for a felony or a Class 1
3471 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division
3472 safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such
3473 person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the
3474 report required pursuant to this subsection shall be utilized by the local school division solely to implement
3475 the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3476 B. The report required pursuant to subsection A shall be transmitted to the division safety official
3477 (i) via certified mail, return receipt requested, to the mailing address identified by the division
3478 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and
3479 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any
3480 certified mail return receipt shall be retained in the case file.

3481 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to
3482 Virginia Employment Commission records, each arresting official shall request in writing that the Virginia
3483 Employment Commission provide the name of the current employer of each person arrested for an offense
3484 set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

3485 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3486 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as
3487 practicable, with the division superintendent of the school division in which the student is enrolled upon
3488 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
3489 any local school division in the Commonwealth for:

3490 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
3491 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;

3492 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3493 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
3494 Title 18.2;

3495 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

3496 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
3497 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

3498 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~
3499 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;

3500 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

3501 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

3502 9. Robbery pursuant to § 18.2-58;

3503 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

3504 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

3505 12. An act of violence by a mob pursuant to § 18.2-42.1; or

3506 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3507 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3508 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article
3509 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
3510 officer shall be permitted to testify as to the results of field tests that have been approved by the Department
3511 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§
3512 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing
3513 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§~~ §§ 4.1-600 and
3514 18.2-247.

3515 B. In any trial for a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer
3516 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable
3517 by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3518 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3519 of which is at issue, is marijuana provided the defendant has been given written notice of his right to

3520 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall
3521 be provided to the defendant prior to trial.

3522 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or
3523 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he
3524 may, by motion prior to trial before the court in which the charge is pending, request such a chemical
3525 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3526 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order
3527 the method of custody, transfer, and return of evidence submitted for chemical analysis.

3528 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3529 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3530 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3531 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3532 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-
3533 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-
3534 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
3535 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
3536 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
3537 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
3538 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
3539 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
3540 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
3541 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
3542 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
3543 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
3544 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
3545 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
3546 known to the defendant until more than one year after entry of the final judgment order, (2) information

3547 provided by the defendant within one year of entry of the final judgment order but that did not become
3548 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
3549 information the usefulness of which could not reasonably have been anticipated by the defendant until
3550 more than one year after entry of the final judgment order and which was promptly provided to the
3551 Commonwealth by the defendant after its usefulness was reasonably apparent.

3552 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
3553 **transactions.**

3554 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
3555 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter
3556 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,
3557 and all other personal and real property of any kind or character, used in substantial connection with (a)
3558 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or
3559 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or~~
3560 ~~possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~
3561 ~~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
3562 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-
3563 248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in
3564 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to
3565 such an exchange, together with any interest or profits derived from the investment of such money or other
3566 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
3567 minimum prescribed punishment for the violation is a term of not less than five years.

3568 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
3569 Chapter 22.1 (§ 19.2-386.1 et seq.).

3570 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3571 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
3572 lawful possession of which is not established or the title to which cannot be ascertained, which have come
3573 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-

3574 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
3575 as follows:

3576 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
3577 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
3578 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
3579 Police, or to such police department or sheriff's office for research and training purposes and for
3580 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
3581 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3582 2. In the event no application is made under subdivision 1, the court shall order the destruction of
3583 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
3584 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
3585 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
3586 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
3587 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
3588 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
3589 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
3590 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
3591 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
3592 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
3593 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
3594 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
3595 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
3596 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
3597 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
3598 order is directed.

3599 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter
3600 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

3601 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-
3602 386.24.

3603 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
3604 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
3605 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
3606 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
3607 result in the requesting agency's exceeding the limits allowed by this subsection.

3608 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
3609 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
3610 inventory of such substance on a monthly basis, which shall include a description and weight of the
3611 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
3612 and training purposes. A written report outlining the details of the inventory shall be made to the chief
3613 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
3614 shall detail the substances that were used for research and training pursuant to a court order in the
3615 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with
3616 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
3617 and manner of destruction.

3618 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3619 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
3620 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
3621 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
3622 of the substance randomly selected from the seized substance for representative purposes as evidence and
3623 destroy the remainder of the seized substance.

3624 Before any destruction is carried out under this section, the law-enforcement agency shall cause
3625 the material seized to be photographed with identification case numbers or other means of identification
3626 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
3627 party, if known, or his attorney, at least five days in advance that the photography will take place and that

3628 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
3629 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
3630 destruction of the time and place the destruction will occur. Any notice required under the provisions of
3631 this section shall be by first-class mail to the last known address of the person required to be notified. In
3632 addition to the substance retained for representative purposes as evidence, all photographs and records
3633 made under this section and properly identified shall be admissible in any court proceeding for any
3634 purposes for which the seized substance itself would have been admissible.

3635 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
3636 **substances, etc.**

3637 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
3638 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
3639 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3640 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
3641 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
3642 the court.

3643 **§ 19.2-389. Dissemination of criminal history record information.**

3644 A. Criminal history record information shall be disseminated, whether directly or through an
3645 intermediary, only to:

3646 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3647 purposes of the administration of criminal justice and the screening of an employment application or
3648 review of employment by a criminal justice agency with respect to its own employees or applicants, and
3649 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
3650 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
3651 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
3652 of this subdivision, criminal history record information includes information sent to the Central Criminal
3653 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
3654 time employee of the State Police, a police department or sheriff's office that is a part of or administered

3655 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
3656 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
3657 the purposes of the administration of criminal justice;

3658 2. Such other individuals and agencies that require criminal history record information to
3659 implement a state or federal statute or executive order of the President of the United States or Governor
3660 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
3661 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
3662 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
3663 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3664 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
3665 provide services required for the administration of criminal justice pursuant to that agreement which shall
3666 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
3667 security and confidentiality of the data;

3668 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
3669 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
3670 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
3671 security of the data;

3672 5. Agencies of state or federal government that are authorized by state or federal statute or
3673 executive order of the President of the United States or Governor to conduct investigations determining
3674 employment suitability or eligibility for security clearances allowing access to classified information;

3675 6. Individuals and agencies where authorized by court order or court rule;

3676 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
3677 owned, operated or controlled by any political subdivision, and any public service corporation that
3678 operates a public transit system owned by a local government for the conduct of investigations of
3679 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
3680 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

3681 conviction record would be compatible with the nature of the employment, permit, or license under
3682 consideration;

3683 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
3684 ~~of Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered
3685 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
3686 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
3687 with a conviction record would be compatible with the nature of the employment under consideration;

3688 8. Public or private agencies when authorized or required by federal or state law or interstate
3689 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
3690 members of that individual's household, with whom the agency is considering placing a child or from
3691 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
3692 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
3693 not be further disseminated to any party other than a federal or state authority or court as may be required
3694 to comply with an express requirement of law;

3695 9. To the extent permitted by federal law or regulation, public service companies as defined in §
3696 56-1, for the conduct of investigations of applicants for employment when such employment involves
3697 personal contact with the public or when past criminal conduct of an applicant would be incompatible
3698 with the nature of the employment under consideration;

3699 10. The appropriate authority for purposes of granting citizenship and for purposes of international
3700 travel, including, but not limited to, issuing visas and passports;

3701 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
3702 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
3703 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
3704 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
3705 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
3706 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
3707 program as defined in § 15.2-1713.1;

3708 12. Administrators and board presidents of and applicants for licensure or registration as a child
3709 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3710 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3711 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
3712 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
3713 not be further disseminated by the facility or agency to any party other than the data subject, the
3714 Commissioner of Social Services' representative or a federal or state authority or court as may be required
3715 to comply with an express requirement of law for such further dissemination; however, nothing in this
3716 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
3717 issuing written certifications regarding the results of a background check that was conducted before July
3718 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3719 13. The school boards of the Commonwealth for the purpose of screening individuals who are
3720 offered or who accept public school employment and those current school board employees for whom a
3721 report of arrest has been made pursuant to § 19.2-83.1;

3722 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
3723 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
3724 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
3725 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3726 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
3727 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
3728 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
3729 162.9:1, subject to the limitations set out in subsection E;

3730 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
3731 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
3732 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3733 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
3734 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
3735 forth in § 4.1-622;

3736 18. The State Board of Elections and authorized officers and employees thereof and general
3737 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
3738 respect to voter registration, limited to any record of felony convictions;

3739 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or
3740 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner
3741 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-
3742 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
3743 treatment, or discharge planning;

3744 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
3745 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
3746 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3747 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
3748 the Department of Education, or the Department of Behavioral Health and Developmental Services for
3749 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
3750 services;

3751 22. The Department of Behavioral Health and Developmental Services and facilities operated by
3752 the Department for the purpose of determining an individual's fitness for employment pursuant to
3753 departmental instructions;

3754 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
3755 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
3756 records information on behalf of such governing boards or administrators pursuant to a written agreement
3757 with the Department of State Police;

3758 24. Public institutions of higher education and nonprofit private institutions of higher education
3759 for the purpose of screening individuals who are offered or accept employment;

3760 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
3761 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
3762 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
3763 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
3764 history record information obtained pursuant to this section or otherwise use any record of an individual
3765 beyond the purpose that such disclosure was made to the threat assessment team;

3766 26. Executive directors of community services boards or the personnel director serving the
3767 community services board for the purpose of determining an individual's fitness for employment, approval
3768 as a sponsored residential service provider, permission to enter into a shared living arrangement with a
3769 person receiving medical assistance services pursuant to a waiver, or permission for any person under
3770 contract with the community services board to serve in a direct care position on behalf of the community
3771 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3772 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3773 determining an individual's fitness for employment, approval as a sponsored residential service provider,
3774 permission to enter into a shared living arrangement with a person receiving medical assistance services
3775 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
3776 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-
3777 506.1, and 37.2-607;

3778 28. The Commissioner of Social Services for the purpose of locating persons who owe child
3779 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
3780 the name, address, demographics and social security number of the data subject shall be released;

3781 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
3782 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3783 purpose of determining if any applicant who accepts employment in any direct care position or requests
3784 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3785 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3786 under contract with the provider to serve in a direct care position has been convicted of a crime that affects

3787 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
3788 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
3789 37.2-607;

3790 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
3791 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
3792 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3793 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
3794 Committee for Courts of Justice for the purpose of determining if any person being considered for election
3795 to any judgeship has been convicted of a crime;

3796 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3797 determining an individual's fitness for employment in positions designated as sensitive under Department
3798 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

3799 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3800 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3801 Violent Predators Act (§ 37.2-900 et seq.);

3802 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3803 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3804 companies, for the conduct of investigations of applications for employment or for access to facilities, by
3805 contractors, leased laborers, and other visitors;

3806 35. Any employer of individuals whose employment requires that they enter the homes of others,
3807 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3808 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3809 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3810 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3811 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3812 than a federal or state authority or court as may be required to comply with an express requirement of law
3813 for such further dissemination, subject to limitations set out in subsection G;

3814 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3815 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3816 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
3817 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
3818 administered by the Department of Medical Assistance Services;

3819 38. The State Corporation Commission for the purpose of investigating individuals who are current
3820 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
3821 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
3822 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
3823 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
3824 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
3825 applicant or its designee;

3826 39. The Department of Professional and Occupational Regulation for the purpose of investigating
3827 individuals for initial licensure pursuant to § 54.1-2106.1;

3828 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
3829 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
3830 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
3831 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

3832 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

3833 42. The State Treasurer for the purpose of determining whether a person receiving compensation
3834 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

3835 43. The Department of Education or its agents or designees for the purpose of screening individuals
3836 seeking to enter into a contract with the Department of Education or its agents or designees for the
3837 provision of child care services for which child care subsidy payments may be provided;

3838 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
3839 of a juvenile's household when completing a predispositional or postdispositional report required by §
3840 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3841 45. The State Corporation Commission, for the purpose of screening applicants for insurance
3842 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3843 46. Administrators and board presidents of and applicants for licensure or registration as a child
3844 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
3845 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
3846 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
3847 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
3848 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
3849 representative, or a federal or state authority or court as may be required to comply with an express
3850 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
3851 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
3852 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
3853 22.1-289.039;

3854 47. The National Center for Missing and Exploited Children for the purpose of screening
3855 individuals who are offered or accept employment or will be providing volunteer or contractual services
3856 with the National Center for Missing and Exploited Children; and

3857 48. Other entities as otherwise provided by law.

3858 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
3859 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
3860 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
3861 designated in the order on whom a report has been made under the provisions of this chapter.

3862 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
3863 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
3864 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
3865 copy of conviction data covering the person named in the request to the person making the request;
3866 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
3867 making of such request. A person receiving a copy of his own conviction data may utilize or further

3868 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
3869 subject, the person making the request shall be furnished at his cost a certification to that effect.

3870 B. Use of criminal history record information disseminated to noncriminal justice agencies under
3871 this section shall be limited to the purposes for which it was given and may not be disseminated further,
3872 except as otherwise provided in subdivision A 46.

3873 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
3874 history record information for employment or licensing inquiries except as provided by law.

3875 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
3876 Exchange prior to dissemination of any criminal history record information on offenses required to be
3877 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
3878 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
3879 time is of the essence and the normal response time of the Exchange would exceed the necessary time
3880 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
3881 history record information that is required to be reported to the Central Criminal Records Exchange may
3882 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
3883 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
3884 justice agency maintaining the record as required by § 15.2-1722.

3885 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
3886 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
3887 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3888 F. Criminal history information provided to licensed assisted living facilities and licensed adult
3889 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
3890 for any offense specified in § 63.2-1720.

3891 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
3892 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
3893 of barrier crime in § 19.2-392.02.

3894 H. Upon receipt of a written request from an employer or prospective employer, the Central
3895 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
3896 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
3897 in the request to the employer or prospective employer making the request, provided that the person on
3898 whom the data is being obtained has consented in writing to the making of such request and has presented
3899 a photo-identification to the employer or prospective employer. In the event no conviction data is
3900 maintained on the person named in the request, the requesting employer or prospective employer shall be
3901 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
3902 forms provided by the Exchange.

3903 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
3904 information pursuant to the rules of court for obtaining discovery or for review by the court.

3905 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3906 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3907 **dissemination of criminal history record information; prohibited practices by employers,**
3908 **educational institutions, and state and local governments; penalty.**

3909 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
3910 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged
3911 under ~~§§~~ former § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-
3912 251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or
3913 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as
3914 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of
3915 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article
3916 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to §
3917 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to
3918 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established
3919 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173
3920 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving

3921 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
3922 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
3923 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
3924 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)
3925 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a
3926 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible
3927 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
3928 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
3929 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time
3930 employee of the State Police or a police department or sheriff's office that is a part of or administered by
3931 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-
3932 time or part-time employment with the State Police or a police department or sheriff's office that is a part
3933 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
3934 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with
3935 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time
3936 or part-time employee of the Department of Forensic Science for the purpose of screening any person for
3937 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
3938 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety
3939 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for
3940 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
3941 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of
3942 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as
3943 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor
3944 Carrier Safety Administration.

3945 B. An employer or educational institution shall not, in any application, interview, or otherwise,
3946 require an applicant for employment or admission to disclose information concerning any arrest, criminal
3947 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction

3948 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
3949 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
3950 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or
3951 conviction is not open for public inspection pursuant to subsection A.

3952 C. Agencies, officials, and employees of the state and local governments shall not, in any
3953 application, interview, or otherwise, require an applicant for a license, permit, registration, or
3954 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
3955 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
3956 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
3957 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
3958 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
3959 inspection pursuant to subsection A. Such an application may not be denied solely because of the
3960 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

3961 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
3962 violation.

3963 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
3964 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
3965 **dissemination of criminal history record information; prohibited practices by employers,**
3966 **educational institutions, and state and local governments; penalty.**

3967 A. Criminal history record information contained in the Central Criminal Records Exchange,
3968 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of
3969 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under ~~§§~~ former
3970 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be
3971 open for public inspection or otherwise disclosed, provided that such records may be disseminated and
3972 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility
3973 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in
3974 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for

3975 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department
3976 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
3977 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a
3978 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
3979 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his
3980 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an
3981 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time
3982 employee of the Department of Forensic Science for the purpose of screening any person for full-time or
3983 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer
3984 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,
3985 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of
3986 screening any person who applies to be a volunteer with or an employee of an emergency medical services
3987 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of
3988 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.
3989 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
3990 Administration; (ix) to any employer or prospective employer or its designee where federal law requires
3991 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective
3992 employer or its designee where the position that a person is applying for, or where access to the premises
3993 in or upon which any part of the duties of such position is performed or is to be performed, is subject to
3994 any requirement imposed in the interest of the national security of the United States under any security
3995 program in effect pursuant to or administered under any contract with, or statute or regulation of, the
3996 United States or any Executive Order of the President; (xi) to any person authorized to engage in the
3997 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting
3998 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set
3999 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,
4000 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office
4001 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee

4002 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person
4003 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
4004 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
4005 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
4006 employer or prospective employer or its designee that is allowed access to such sealed records in
4007 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
4008 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
4009 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
4010 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,
4011 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
4012 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
4013 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
4014 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
4015 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
4016 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
4017 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)
4018 to the person arrested, charged, or convicted of the offense that was sealed.

4019 B. Except as provided in subsection C, agencies, officials, and employees of state and local
4020 governments, private employers that are not subject to federal laws or regulations in the hiring process,
4021 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
4022 employment or admission to disclose information concerning any arrest, criminal charge, or conviction
4023 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
4024 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
4025 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
4026 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open
4027 for public inspection pursuant to subsection A.

4028 C. The provisions of subsection B shall not apply if:

4029 1. The person is applying for full-time employment or part-time employment with, or to be a
4030 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
4031 by the Commonwealth or any political subdivision thereof;

4032 2. This Code requires the employer to make such an inquiry;

4033 3. Federal law requires the employer to make such an inquiry;

4034 4. The position, or access to the premises in or upon which any part of the duties of such position
4035 is performed or is to be performed, is subject to any requirement imposed in the interest of the national
4036 security of the United States under any security program in effect pursuant to or administered under any
4037 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4038 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
4039 9.1-134 allow the employer to access such sealed records.

4040 D. Agencies, officials, and employees of the state and local governments shall not, in any
4041 application, interview, or otherwise, require an applicant for a license, permit, registration, or
4042 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
4043 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
4044 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
4045 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
4046 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
4047 inspection pursuant to subsection A. Such an application may not be denied solely because of the
4048 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4049 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
4050 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
4051 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
4052 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4053 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4054 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4055 conviction is not open for public inspection pursuant to subsection A. Such an application may not be

4056 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4057 criminal charge, or conviction.

4058 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as
4059 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,
4060 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not
4061 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4062 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4063 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4064 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
4065 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4066 criminal charge, or conviction.

4067 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
4068 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
4069 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant
4070 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection
4071 A does not have to be disclosed in the application. Such notice need not be included on any application
4072 for one or more of the purposes set forth in subsection C.

4073 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
4074 conviction that is not open for public inspection pursuant to subsection A or any information from such
4075 records among law-enforcement officers and attorneys when such disclosures are made by such officers
4076 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure
4077 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth
4078 when related to the prosecution of a separate crime.

4079 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
4080 each violation.

4081 **§ 19.2-392.02. National criminal background checks by businesses and organizations**
4082 **regarding employees or volunteers providing care to children or the elderly or disabled.**

4083 A. For purposes of this section:

4084 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,

4085 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

4086 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,

4087 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-

4088 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-

4089 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,

4090 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

4091 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,

4092 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-

4093 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-

4094 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-

4095 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

4096 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

4097 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,

4098 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-

4099 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

4100 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-

4101 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-

4102 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the

4103 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-

4104 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of

4105 § 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-

4106 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

4107 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250

4108 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §

4109 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against

4110 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of
4111 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §
4112 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
4113 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another
4114 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is
4115 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
4116 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4117 "Barrier crime information" means the following facts concerning a person who has been arrested
4118 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
4119 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
4120 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
4121 the disposition of the charge, and any other information that may be useful in identifying persons arrested
4122 for or convicted of a barrier crime.

4123 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
4124 recreation to children or the elderly or disabled.

4125 "Department" means the Department of State Police.

4126 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
4127 or seeks to volunteer for a qualified entity.

4128 "Identification document" means a document made or issued by or under the authority of the
4129 United States government, a state, a political subdivision of a state, a foreign government, political
4130 subdivision of a foreign government, an international governmental or an international quasi-
4131 governmental organization that, when completed with information concerning a particular individual, is
4132 of a type intended or commonly accepted for the purpose of identification of individuals.

4133 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
4134 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
4135 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised

4136 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
4137 operate a qualified entity.

4138 "Qualified entity" means a business or organization that provides care to children or the elderly or
4139 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
4140 pursuant to subdivision A 7 of § 22.1-289.030.

4141 B. A qualified entity may request the Department of State Police to conduct a national criminal
4142 background check on any provider who is employed by such entity. No qualified entity may request a
4143 national criminal background check on a provider until such provider has:

- 4144 1. Been fingerprinted; and
- 4145 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
4146 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
4147 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
4148 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
4149 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
4150 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
4151 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
4152 prompt determination as to the validity of such challenge before a final determination is made by the
4153 Department; and (v) a notice to the provider that prior to the completion of the background check the
4154 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
4155 for whom the qualified entity provides care.

4156 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
4157 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
4158 B, the Department shall make a determination whether the provider has been convicted of or is the subject
4159 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
4160 information, the Department shall access the national criminal history background check system, which
4161 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
4162 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If

4163 the Department receives a background report lacking disposition data, the Department shall conduct
4164 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
4165 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
4166 days.

4167 D. Any background check conducted pursuant to this section for a provider employed by a private
4168 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4169 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
4170 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4171 E. Any background check conducted pursuant to this section for a provider employed by a
4172 governmental entity shall be provided to that entity.

4173 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
4174 national criminal background check, the Department and the Federal Bureau of Investigation may each
4175 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
4176 with the fingerprints.

4177 G. The failure to request a criminal background check pursuant to subsection B shall not be
4178 considered negligence per se in any civil action.

4179 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing**
4180 **of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of**
4181 **former possession of marijuana offenses.**

4182 A. If a person was convicted of a violation of any of the following sections, such conviction,
4183 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner
4184 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,
4185 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

4186 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be
4187 ordered to be automatically sealed if seven years have passed since the date of the conviction and the
4188 person convicted of such offense has not been convicted of violating any law of the Commonwealth that
4189 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other

4190 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions
4191 under Title 46.2, during that time period.

4192 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the
4193 conviction, the person was convicted of another offense that is not eligible for automatic sealing under
4194 subsection A.

4195 D. If a person was charged with any criminal offense and such offense concluded with any final
4196 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed
4197 in the manner set forth in § 19.2-392.7.

4198 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
4199 court pursuant to the provisions of § 19.2-392.12.

4200 § 22.1-206. **Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**
4201 **products, and gambling.**

4202 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
4203 prescribed by the Board of Education.

4204 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
4205 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
4206 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
4207 educational materials to the Department of Education. The Department of Education shall review and shall
4208 distribute such materials as are approved to the public schools.

4209 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
4210 shall distribute to each local school division educational materials concerning the health and safety risks
4211 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
4212 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
4213 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
4214 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
4215 educational materials.

4216 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the
4217 public schools as prescribed by the Board.

4218 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4219 A. School boards shall expel from school attendance any student whom such school board has
4220 determined, in accordance with the procedures set forth in this article, to have brought a controlled
4221 substance, or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247 onto
4222 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,
4223 or a school board may, however, determine, based on the facts of a particular situation, that special
4224 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
4225 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
4226 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
4227 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
4228 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
4229 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's
4230 expulsion regardless of the facts of the particular situation.

4231 B. Each school board shall revise its standards of student conduct to incorporate the requirements
4232 of this section no later than three months after the date on which this act becomes effective.

4233 **§ 23.1-1301. Governing boards; powers.**

4234 A. The board of visitors of each baccalaureate public institution of higher education or its designee
4235 may:

- 4236 1. Make regulations and policies concerning the institution;
- 4237 2. Manage the funds of the institution and approve an annual budget;
- 4238 3. Appoint the chief executive officer of the institution;
- 4239 4. Appoint professors and fix their salaries; and
- 4240 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4241 B. The governing board of each public institution of higher education or its designee may:

4242 1. In addition to the powers set forth in Restructured Higher Education Financial and
4243 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
4244 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
4245 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
4246 and administered in the same manner as all other gifts and bequests;

4247 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
4248 purposes on any property owned by the institution;

4249 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
4250 maintained, or controlled by the institution;

4251 4. Adopt regulations or institution policies for the employment and dismissal of professors,
4252 teachers, instructors, and other employees;

4253 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
4254 to the regulations or institution policies required pursuant to § 23.1-1303;

4255 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
4256 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
4257 by such regulations or policies;

4258 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
4259 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
4260 the awareness and prevention of sexual crimes committed upon students;

4261 8. Establish guidelines for the initiation or induction of students into any social fraternity or
4262 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

4263 9. Assign any interest it possesses in intellectual property or in materials in which the institution
4264 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
4265 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
4266 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
4267 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
4268 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and

4269 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
4270 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
4271 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
4272 In the event the Governor does not approve such transfer, the materials shall remain the property of the
4273 respective institutions and may be used and developed in any manner permitted by law;

4274 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
4275 electronic communication means pursuant to § 2.2-3708.3; and

4276 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
4277 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
4278 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
4279 statutes and local ordinances with respect to offenses occurring on the property of the institution.

4280 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4281 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification
4282 card, vehicle registration, certificate of title, or other document issued by the Department if such person
4283 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
4284 entitled thereto, including obtaining any document issued by the Department through the use of
4285 counterfeit, forged, or altered documents.

4286 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
4287 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4288 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
4289 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
4290 provisions of subsection A.

4291 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
4292 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
4293 of any document issued by the Department for the purpose of engaging in any age-limited activity,
4294 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.

4295 However, if a person is charged and convicted of any other violation of this section, such offense shall
4296 constitute a Class 6 felony.

4297 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
4298 identification card, vehicle registration, certificate of title, or other document issued by the Department
4299 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
4300 notice of the cancellation to the address of record maintained by the Department.

4301 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
4302 **card to obtain alcoholic beverages; penalties.**

4303 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
4304 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
4305 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
4306 United States Armed Forces identification card; United States passport or foreign government visa;
4307 Virginia Department of Motor Vehicles special identification card; official identification issued by any
4308 other federal, state or foreign government agency; or official student identification card of an institution
4309 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
4310 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
4311 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

4312 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4313 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
4314 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
4315 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
4316 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
4317 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
4318 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
4319 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
4320 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
4321 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court

4322 that the threat to public safety complained of exists and is likely to continue if such injunction is not
4323 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
4324 The respondent shall be served with notice of the time and place of the hearing and copies of all
4325 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
4326 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
4327 the injunction has been abated by reason of a change of ownership, management, or business operations
4328 at the establishment, or other change in circumstance.

4329 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4330 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
4331 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an
4332 investigation into the activities at the establishment complained of and conduct an administrative hearing.
4333 After the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4334 hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control
4335 Authority or the Virginia Cannabis Control Authority, regardless of disposition, any injunction issued
4336 hereunder shall be null, without further action by the complainant, respondent, or the court.

4337 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4338 This section shall apply to any person who is not a qualified voter because of a felony conviction,
4339 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
4340 meets the conditions and requirements set out in this section.

4341 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
4342 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-
4343 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)
4344 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
4345 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
4346 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
4347 such petition, the court may approve the petition for restoration to the person of his right if the court is
4348 satisfied from the evidence presented that the petitioner has completed, five or more years previously,

4349 service of any sentence and any modification of sentence including probation, parole, and suspension of
4350 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
4351 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
4352 the same period.

4353 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
4354 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
4355 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
4356 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
4357 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
4358 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
4359 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
4360 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
4361 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
4362 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
4363 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

4364 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
4365 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
4366 vote.

4367 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4368 A. Any person shall be regarded as practicing the healing arts who actually engages in such
4369 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
4370 to the public in any manner a readiness to practice or who uses in connection with his name the words or
4371 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
4372 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
4373 to heal, cure or relieve those suffering from any injury, deformity or disease.

4374 Signing a birth or death certificate, or signing any statement certifying that the person so signing
4375 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or

4376 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4377 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4378 are required to sign birth certificates.

4379 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4380 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4381 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
4382 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
4383 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
4384 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
4385 that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to
4386 issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

4387 **§ 59.1-200. Prohibited practices.**

4388 A. The following fraudulent acts or practices committed by a supplier in connection with a
4389 consumer transaction are hereby declared unlawful:

- 4390 1. Misrepresenting goods or services as those of another;
- 4391 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 4392 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
4393 services, with another;
- 4394 4. Misrepresenting geographic origin in connection with goods or services;
- 4395 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,
4396 or benefits;
- 4397 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or
4398 model;
- 4399 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
4400 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"
4401 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,

4402 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,
4403 imperfects or "not first class";

4404 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
4405 at the price or upon the terms advertised.

4406 In any action brought under this subdivision, the refusal by any person, or any employee, agent,
4407 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
4408 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall
4409 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods
4410 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount
4411 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer
4412 did in fact have or reasonably expected to have at least such quantity or amount for sale;

4413 9. Making false or misleading statements of fact concerning the reasons for, existence of, or
4414 amounts of price reductions;

4415 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or
4416 parts installed;

4417 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
4418 or bill for merchandise or services previously ordered;

4419 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
4420 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
4421 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
4422 goods or services advertised or offered for sale;

4423 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
4424 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
4425 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or
4426 under federal statutes or regulations;

4427 13a. Failing to provide to a consumer, or failing to use or include in any written document or
4428 material provided to or executed by a consumer, in connection with a consumer transaction any statement,

4429 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.
4430 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection
4431 with the consumer transaction;

4432 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in
4433 connection with a consumer transaction;

4434 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
4435 3.2-6516, or 3.2-6519 is a violation of this chapter;

4436 16. Failing to disclose all conditions, charges, or fees relating to:

4437 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
4438 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
4439 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
4440 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
4441 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
4442 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for
4443 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the
4444 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund
4445 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not
4446 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for
4447 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested
4448 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the
4449 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or
4450 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4451 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the
4452 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
4453 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of
4454 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the
4455 agreement;

4456 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in
4457 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's
4458 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within
4459 60 days of receiving overpayments. If the credit balance information is incorporated into statements of
4460 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is
4461 required;

4462 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
4463 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
4464 agreement;

4465 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4466 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1
4467 et seq.);

4468 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1
4469 et seq.);

4470 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-
4471 207.17 et seq.);

4472 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4473 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-
4474 424 et seq.);

4475 24. Violating any provision of § 54.1-1505;

4476 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,
4477 Chapter 17.6 (§ 59.1-207.34 et seq.);

4478 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

4479 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

4480 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

4481 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
4482 seq.);

- 4483 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
- 4484 et seq.);
- 4485 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4486 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4487 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4488 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4489 35. Using the consumer's social security number as the consumer's account number with the
- 4490 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
- 4491 with the consumer's social security number;
- 4492 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4493 37. Violating any provision of § 8.01-40.2;
- 4494 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4495 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4496 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4497 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
- 4498 59.1-525 et seq.);
- 4499 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4500 43. Violating any provision of § 59.1-443.2;
- 4501 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4502 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4503 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4504 47. Violating any provision of § 18.2-239;
- 4505 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4506 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
- 4507 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4508 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 4509 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the

- 4510 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
4511 products that are used, secondhand or "seconds";
- 4512 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4513 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4514 52. Violating any provision of § 8.2-317.1;
- 4515 53. Violating subsection A of § 9.1-149.1;
- 4516 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
4517 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
4518 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
4519 which defective drywall has been permanently installed or affixed;
- 4520 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
4521 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
4522 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
4523 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
4524 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4525 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4526 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4527 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 4528 59. Violating any provision of subsection E of § 32.1-126;
- 4529 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
4530 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4531 61. Violating any provision of § 2.2-2001.5;
- 4532 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4533 63. Violating any provision of § 6.2-312;
- 4534 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4535 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4536 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

4537 67. Knowingly violating any provision of § 8.01-27.5;

4538 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option
4539 to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
4540 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period
4541 to avoid an obligation to pay for the goods or services;

4542 69. Selling or offering for sale any substance intended for human consumption, orally or by
4543 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
4544 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
4545 to turn a compound into a different compound by adding or subtracting molecules to or from the original
4546 compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S.
4547 Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be
4548 construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

4549 70. Selling or offering for sale to a person younger than 21 years of age any substance intended
4550 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
4551 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4552 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
4553 permitted under ~~Chapter 16 Subtitle II~~ (§ ~~4.1-1600~~ 4.1-600 et seq.) of Title 4.1;

4554 71. Selling or offering for sale any substance intended for human consumption, orally or by
4555 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
4556 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
4557 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons
4558 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such
4559 substance that constitutes a single serving, and (d) the total percentage and milligrams of
4560 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that
4561 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an~~
4562 ~~independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International~~
4563 ~~Organization of Standardization by a third party accrediting body~~ a licensed marijuana testing facility,

4564 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
4565 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
4566 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
4567 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under
4568 ~~Chapter 16 (§ 4.1-1600 et seq.)~~ Subtitle II (§ 4.1-600 et seq.) of Title 4.1;

4569 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as
4570 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
4571 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

4572 73. Selling or offering for sale any substance intended for human consumption, orally or by
4573 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container
4574 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined
4575 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a
4576 manufacturer, processor, packer, or distributor of a product intended for human consumption other than
4577 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
4578 distribute such substance;

4579 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not
4580 include a label stating that the product is not intended for human consumption. This subdivision shall not
4581 (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4582 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted
4583 under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were
4584 manufactured prior to July 1, 2023, provided that the person provides documentation of the date of
4585 manufacture if requested;

4586 75. Violating any provision of § 59.1-466.8;

4587 76. Violating subsection F of § 36-96.3:1;

4588 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or
4589 (ii) any kratom product that does not include a label listing all ingredients and with the following guidance:
4590 "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to

4591 diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the
4592 leaf of the plant *Mitragyna speciosa* or any extract thereof; and

4593 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45,
4594 to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale
4595 of any such good or provision of any such continuous service.

4596 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
4597 lease solely by reason of the failure of such contract or lease to comply with any other law of the
4598 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
4599 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such
4600 contract or lease.

4601 **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.**

4602 **3. That the following provisions shall become effective on January 1, 2025: (i) §§ 3.2-4113, 4.1-1121,**
4603 **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-**
4604 **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,**
4605 **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-**
4606 **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-**
4607 **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,**
4608 **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**
4609 **act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-**
4610 **1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312 of the Code of Virginia, as created**
4611 **by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as**
4612 **repealed by this act.**

4613 **4. That the Virginia Cannabis Control Authority (the Authority) may, on and after July 1, 2024,**
4614 **begin accepting license applications from all applicants, including pharmaceutical processors and**
4615 **cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title**
4616 **4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with the**
4617 **Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.)**

4618 of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of
4619 the Code of Virginia, as created by this act. Notwithstanding the third enactment of this act, any
4620 applicant issued a license by the Authority may operate in accordance with the provisions of this
4621 act prior to January 1, 2025; however, prior to January 1, 2025, no licensee may engage in the retail
4622 sale of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana
4623 seeds. Notwithstanding any other provision of law, on or after July 1, 2024, and prior to January 1,
4624 2025, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana
4625 transporter licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent
4626 or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-
4627 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-
4628 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
4629 act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such
4630 violation is related to acts committed within the scope of the licensure or employment and in
4631 accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of
4632 Virginia) and this enactment. From July 1, 2024, to July 1, 2029, the Authority shall reserve license
4633 slots for all pharmaceutical processors that have been issued a permit by the Board of Directors (the
4634 Board) of the Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of
4635 Virginia and issue a cultivation, processing, transporter, and retail license to any such
4636 pharmaceutical processor that meets the applicable licensing requirements. The Board shall not
4637 permit any marijuana cultivation facility licensee to engage in the outdoor growth of marijuana
4638 plants until the Board has promulgated regulations governing outdoor growth pursuant to § 4.1-
4639 606 of the Code of Virginia, as amended by this act.

4640 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
4641 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4642 6. That the Virginia Cannabis Control Authority shall analyze whether any limits should be placed
4643 on the number of licenses issued to operate a marijuana establishment and report its finding to the
4644 General Assembly by November 1, 2024.

4645 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
4646 promulgate regulations to implement the provisions of this act by December 31, 2024. With the
4647 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
4648 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
4649 thereto shall apply to the Board's initial adoption of such regulations.

4650 8. That the provisions of this act may result in a net increase in periods of imprisonment or
4651 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
4652 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
4653 therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia
4654 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-
4655 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for
4656 periods of commitment to the custody of the Department of Juvenile Justice.

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