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HOUSE BILL NO. 698
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Rouse
on February 28, 2024)

(Patron Prior to Substitute—Delegate Krizek)

A *BILL to amend and reenact §§ 2.2-2499.8, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; 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 §§ 2.2-2499.8, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426 as follows:

§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.

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

- 1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;
- 2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;

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

63 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01;
64 and

65 5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to
66 § 4.1-1501.

67 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants
68 issued by the Comptroller upon written request signed by (i) the Director of Diversity, Equity, and
69 Inclusion or (ii) a majority of the members of the Cannabis Equity Reinvestment Board established
70 pursuant to § 2.2-2499.5.

71 **§ 3.2-4113. Production of industrial hemp lawful.**

72 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or
73 his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any
74 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
75 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
76 18.2-250 for the possession or growing of industrial hemp or any Cannabis sativa with a
77 tetrahydrocannabinol concentration that does not exceed the total tetrahydrocannabinol concentration
78 percentage established in federal regulations applicable to negligent violations located at 7 C.F.R.
79 § 990.6(b)(3). No handler or his agent or processor or his agent shall be prosecuted under Chapter 11
80 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued
81 a summons or judgment for the possession, handling, or processing of industrial hemp. In any
82 complaint, information, or indictment, and in any action or proceeding brought for the enforcement of
83 any provision of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1*, Article 1 (§ 18.2-247 et seq.) of Chapter 7
84 of Title 18.2, or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any
85 exception, excuse, proviso, or exemption contained in this article or the Drug Control Act, and the
86 burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

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

89 C. No person shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~,
90 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the involuntary growth of industrial hemp through the
91 inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's
92 storage site, or process site.

93 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

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

104 **§ 4.1-600. Definitions.**

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

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

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

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

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

113 "*Canopy*" means the space used by a licensee to produce flowering marijuana plants, including areas
114 between plants, pathways, walkways, and empty space between rows that allow for airflow, light,
115 growth, access for watering, trimming, and other activities associated with marijuana cultivation.
116 "*Canopy*" does not include space used for mother plants, clones, immature or nonflowering plants,
117 processing, drying, curing, trimming, storage, offices, hallways, work areas, or other administrative and
118 nonproduction uses. If flowering marijuana plants are cultivated using a shelving or other layered
119 system, the surface area of each level shall be included for purposes of calculating canopy.

120 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or
121 constructed to be significantly difficult for a typical child under five years of age to open and not to be

122 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more
123 than a single use or that contains multiple servings, resealable.

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

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

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

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

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

131 "*Historically economically disadvantaged community*" means either (i) a jurisdiction identified by the
132 Board utilizing census tract data made available by the United States Census Bureau in which offenses
133 for marijuana possession were committed at a rate in excess of 150 percent of the statewide average for
134 marijuana possession offenses during the 10-year period of 2009 to 2019 or (ii) a historically
135 underutilized business zone as defined in 15 U.S.C. § 657a.

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

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

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

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

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

142 "Manufacturing" or "manufacture" means the production of marijuana products or the blending,
143 infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana
144 extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not
145 include cultivation or testing.

146 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
147 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
148 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the
149 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such
150 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus
151 Cannabis; (ii) industrial hemp, as defined in ~~§ 3.2-4112~~, that is possessed by a person registered
152 pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in ~~§ 3.2-4112~~, that
153 is possessed by a person who holds a hemp producer license issued by the U.S. Department of
154 Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in ~~§ 3.2-4112~~; (v) an
155 industrial hemp extract, as defined in ~~§ 3.2-5145.1~~; or (vi) any substance containing a
156 tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been
157 placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act
158 (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

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

162 "Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and
163 package retail marijuana; to purchase or take possession of marijuana plants and seeds from other
164 marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana
165 plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession
166 of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation
167 facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to
168 sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating
169 marijuana at home for personal use § 4.1-800.

170 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
171 marijuana ~~manufacturing processing~~ facility, a marijuana wholesaler *transporter*, or a retail marijuana
172 store.

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

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

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

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

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

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

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

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

198 *"Micro business" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-606.*

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

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

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

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

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

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

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

220 "Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of
221 retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a
222 marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail
223 marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers
224 § 4.1-802.

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

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

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

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

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

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

237 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

238 A. The General Assembly has determined that there exists in the Commonwealth a need to control
239 the possession, sale, transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana
240 products in the Commonwealth. Further, the General Assembly determines that the creation of an
241 authority for this purpose is in the public interest, serves a public purpose, and will promote the health,
242 safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this
243 objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive
244 of the legislative, executive, or judicial branches of state government, to be known as the Virginia

245 Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle
 246 shall be deemed the performance of an essential governmental function and a matter of public necessity
 247 for which public moneys may be spent.

248 B. The Board of Directors of the Authority is vested with control of the possession, sale,
 249 transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the
 250 Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which
 251 ~~retail~~ marijuana and ~~retail~~ marijuana products are possessed, sold, transported, distributed, and delivered,
 252 so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health,
 253 safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the
 254 powers granted by this subtitle shall be in all respects for the benefit of the citizens of the
 255 Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the
 256 assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private
 257 individual, except that reasonable compensation may be paid for services rendered to or for the
 258 Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity
 259 with said purposes, and no private individual shall be entitled to share in the distribution of any of the
 260 corporate assets on dissolution of the Authority.

261 **§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings;**
 262 **compensation and expenses; duties.**

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

268 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14
 269 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the
 270 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and
 271 geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as
 272 follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative
 273 from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the
 274 Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from
 275 the Medical Society of Virginia, and one of whom shall be a representative from the Virginia
 276 Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom
 277 shall be a representative from a community services board, one of whom shall be a person or health
 278 care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a
 279 person or health care provider with expertise in substance use disorder prevention, one of whom shall be
 280 a person with experience in disability rights advocacy, one of whom shall be a person with experience
 281 in veterans health care, and one of whom shall be a person with a social or health equity background;
 282 and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of
 283 whom shall be a representative of a local health district, one of whom shall be a person who is part of
 284 the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and
 285 one of whom shall be a registered medical cannabis patient.

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

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

296 The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his
 297 designee. The Advisory Council shall select a *chairman* and vice-chairman from among its membership.
 298 A majority of the members shall constitute a quorum *unless the Advisory Council adopts a policy by the*
 299 *affirmative vote of a majority of the Advisory Council members that allows for a lesser number of*
 300 *members to constitute a quorum, which shall be no less than nine members.* The Advisory Council shall
 301 meet at least two times each year and shall meet at the call of the chairman or, whenever the majority
 302 of the members so request, *or upon the Board's submission of regulations to the Advisory Council for*
 303 *approval.*

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

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

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

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

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

317 3. ~~Submit~~ *To review and approve Board regulations related to public health pursuant to subsection*
 318 *F of § 4.1-606. The Advisory Council shall approve or deny such regulations within 30 calendar days of*
 319 *the Board's submission of the regulations to the Advisory Council. If the Advisory Council fails to*
 320 *approve or deny a regulation within 30 calendar days, the Board may adopt such regulation without*
 321 *approval by the Advisory Council.*

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

330 **§ 4.1-604. Powers and duties of the Board.**

331 The Board shall have the following powers and duties:

332 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and
 333 § 4.1-606;

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

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

337 4. Determine the nature, form, and capacity of all containers used for holding marijuana products to
 338 be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

339 5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

340 6. Establish standards and implement an online course for employees of retail marijuana stores that
 341 trains employees on how to educate consumers on the potential risks of marijuana use;

342 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
 343 similar document regarding the potential risks of marijuana use to be prominently displayed and made
 344 available to consumers;

345 8. Establish a position for a Cannabis ~~Social Equity~~ *Micro Business* Liaison who shall lead the
 346 Cannabis *Micro Business Equity and Diversity* Support Team and liaise with the Director of Diversity,
 347 Equity, and Inclusion on matters related to ~~diversity, equity, and inclusion standards~~ *micro business*
 348 *participation* in the marijuana industry;

349 9. Establish a Cannabis *Micro Business Equity and Diversity* Support Team, which shall (i) develop
 350 requirements for the creation and submission of ~~diversity, equity, and inclusion~~ *micro cannabis business*
 351 *accelerator* plans by persons who wish to possess a license in more than one license category pursuant
 352 to subsection C of § 4.1-805, ~~which may include a requirement that the licensee participate in social~~
 353 ~~equity apprenticeship plan,~~ and an approval process and requirements for implementation of such plans;
 354 (ii) be responsible for conducting an analysis of potential barriers to entry for ~~small, women-owned, and~~
 355 ~~minority-owned businesses and veteran-owned~~ *micro* businesses interested in participating in the
 356 marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii)
 357 provide assistance with business planning for potential marijuana establishment licensees; (iv) spread
 358 awareness of business opportunities related to the marijuana marketplace in ~~areas disproportionately~~
 359 ~~impacted by marijuana prohibition and enforcement~~ *historically economically disadvantaged*
 360 *communities*; (v) provide technical assistance in navigating the administrative process to potential
 361 marijuana establishment licensees; and (vi) conduct other outreach initiatives in ~~areas disproportionately~~
 362 ~~impacted by marijuana prohibition and enforcement~~ *historically economically disadvantaged communities*
 363 as necessary;

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

- 368 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Micro Business
 369 Liaison and the Director of Diversity, Equity, and Inclusion, to promote and encourage participation in
 370 the marijuana industry by people from *historically economically disadvantaged* communities that have
 371 been disproportionately impacted by marijuana prohibition and enforcement and to positively impact
 372 those communities;
- 373 12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
- 374 13. Adopt, use, and alter at will a common seal;
- 375 14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the
 376 sale of products of, or services rendered by the Authority at rates to be determined by the Authority for
 377 the purpose of providing for the payment of the expenses of the Authority;
- 378 15. Make and enter into all contracts and agreements necessary or incidental to the performance of
 379 its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including
 380 agreements with any person or federal agency;
- 381 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
 382 experts, investment bankers, superintendents, managers, and such other employees and special agents as
 383 may be necessary and fix their compensation to be payable from funds made available to the Authority.
 384 ~~Legal~~ *The Board may employ or retain legal counsel of its choice to advise or represent the Authority*
 385 *in hearings, controversies, or other matters involving the interests of the Authority; however, upon*
 386 *request by the Board, the Attorney General shall provide legal services for the Authority shall be*
 387 *provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;*
- 388 17. Receive and accept from any federal or private agency, foundation, corporation, association, or
 389 person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive
 390 and accept from the Commonwealth or any state and any municipality, county, or other political
 391 subdivision thereof or from any other source aid or contributions of either money, property, or other
 392 things of value, to be held, used, and applied only for the purposes for which such grants and
 393 contributions may be made. All federal moneys accepted under this section shall be accepted and
 394 expended by the Authority upon such terms and conditions as are prescribed by the United States and as
 395 are consistent with state law, and all state moneys accepted under this section shall be expended by the
 396 Authority upon such terms and conditions as are prescribed by the Commonwealth;
- 397 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
 398 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
 399 its duties performed. The Board may delegate or assign any duty or task to be performed by the
 400 Authority to any officer or employee of the Authority. The Board shall remain responsible for the
 401 performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where
 402 appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated.
 403 Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such
 404 delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance
 405 of the duties and tasks;
- 406 19. Conduct or engage in any lawful business, activity, effort, or project consistent with the
 407 Authority's purposes or necessary or convenient to exercise its powers;
- 408 20. Develop policies and procedures generally applicable to the procurement of goods, services, and
 409 construction, based upon competitive principles;
- 410 21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of
 411 Title 2.2;
- 412 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed,
 413 tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the
 414 Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
 415 therein, at such annual rental and on such terms and conditions as may be determined by the Board;
 416 lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest
 417 therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual
 418 rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey
 419 any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired
 420 or held by the Authority on such terms and conditions as may be determined by the Board; and occupy
 421 and improve any land or building required for the purposes of this subtitle;
- 422 23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be
 423 considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying,
 424 blending, and processing plants;
- 425 24. Appoint every agent and employee required for its operations, require any or all of them to give
 426 bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the
 427 services of experts and professionals;
- 428 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the

429 production of records, memoranda, papers, and other documents before the Board or any agent of the
 430 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board
 431 member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take
 432 testimony thereunder, and decide cases, subject to final decision by the Board, on application of any
 433 party aggrieved. The Board may enter into consent agreements and may request and accept from any
 434 applicant, licensee, or permittee a consent agreement in lieu of proceedings on (i) objections to the
 435 issuance of a license or permit or (ii) disciplinary action. Any such consent agreement (a) shall include
 436 findings of fact and provisions regarding whether the terms of the consent agreement are confidential
 437 and (b) may include an admission or a finding of a violation. A consent agreement shall not be
 438 considered a case decision of the Board and shall not be subject to judicial review under the provisions
 439 of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future
 440 disciplinary proceedings;

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

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

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

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

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

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

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

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

468 34. *Issue an quarterly report that contains information regarding (i) license fees waived or reduced*
 469 *pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of*
 470 *§ 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving*
 471 *under the influence, underage consumption and youth awareness, and health risks; (iv) community*
 472 *engagement initiatives; (v) sales and tax revenue; (vi) programs funded by cannabis tax revenue; (vii)*
 473 *efforts made pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions*
 474 *taken.*

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

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

479 **§ 4.1-606. Regulations of the Board.**

480 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the
 481 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle
 482 and to prevent the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and
 483 testing of marijuana and marijuana products. The Board may amend or repeal such regulations. ~~Such~~
 484 *Except as otherwise provided by law, such* regulations shall be promulgated, amended, or repealed in
 485 accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

486 B. The Board shall promulgate regulations that:

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

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

- 491 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;
- 492 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to Chapter
- 493 14 (§ 4.1-1400 et seq.);
- 494 5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle
- 495 in a way that, when possible, prevents disparate impacts on historically *economically* disadvantaged
- 496 communities;
- 497 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and
- 498 ~~retail~~ marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with
- 499 the provisions of this subtitle;
- 500 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not
- 501 exceed (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an
- 502 equivalent amount for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible
- 503 marijuana products and where practicable an equivalent amount for other marijuana products. Such
- 504 regulations may include other product and dispensing limitations on tetrahydrocannabinol;
- 505 8. Establish requirements for the form, content, and retention of all records and accounts by all
- 506 licensees;
- 507 9. Provide alternative methods for licensees to maintain and store business records that are subject to
- 508 Board inspection, including methods for Board-approved electronic and offsite storage;
- 509 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
- 510 stores in the community and (ii) metrics that have similarly shown an association with negative
- 511 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
- 512 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603. *Such*
- 513 *regulations shall ensure that marijuana establishment licenses are, as possible and practicable, issued*
- 514 *evenly among all areas of the Commonwealth;*
- 515 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer
- 516 within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at
- 517 the address on record with the Board by certified mail, return receipt requested, and by regular mail;
- 518 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to
- 519 subsection C of § 4.1-1002;
- 520 13. Establish criteria by which to ~~evaluate social equity~~ *identify micro business* license applicants,
- 521 which shall be an applicant ~~who has lived or been domiciled for at least 12 months in the~~
- 522 ~~Commonwealth and is either (i) an applicant with~~ *that has* at least 66 percent ownership *and direct*
- 523 *control* by a person or persons who (i) have been convicted of or adjudicated delinquent for any
- 524 misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates
- 525 to marijuana; (ii) ~~an applicant with at least 66 percent ownership by a person or persons who is~~ *are* the
- 526 parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any
- 527 misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates
- 528 to marijuana; (iii) ~~an applicant with at least 66 percent ownership by a person or persons who have~~ *have*
- 529 *resided for at least three of the past five years in a jurisdiction that is determined by the Board after*
- 530 *utilizing census tract data made available by the United States Census Bureau to have been*
- 531 *disproportionately policed for marijuana crimes;* (iv) ~~an applicant with at least 66 percent ownership by~~
- 532 ~~a person or persons who have resided for at least three of the last five years in a jurisdiction determined~~
- 533 ~~by the Board after utilizing census tract data made available by the United States Census Bureau to be~~
- 534 ~~economically distressed;~~ or (v) ~~an applicant with at least 66 percent ownership by a person or persons~~
- 535 ~~who graduated from a historically black~~ *historically economically disadvantaged community;* (iv) *have*
- 536 *attended for at least five years a public elementary or secondary school located in a historically*
- 537 *economically disadvantaged community;* (v) *have received a federal Pell Grant or attended for at least*
- 538 *two years a college or university located in the Commonwealth at which at least 30 percent of the*
- 539 *students, on average, are eligible for a federal Pell Grant; or (vi) is a veteran of the armed forces of*
- 540 *the United States;*
- 541 14. ~~For the purposes of establishing criteria by which to evaluate social equity license applicants;~~
- 542 ~~establish standards by which to determine (i) which jurisdictions have been disproportionately policed~~
- 543 ~~for marijuana crimes and (ii) which jurisdictions are economically distressed;~~
- 544 15. ~~Establish~~ *For applicants that meet the criteria set forth in subdivision 13, establish* standards and
- 545 requirements for (i) ~~any~~ *a* preference in the licensing process for ~~qualified social equity applicants;~~ (ii)
- 546 what percentage of application or license fees are waived for a ~~qualified social equity applicant, and to~~
- 547 ~~promote participation by micro businesses with an inability to pay standard application and license fees;~~
- 548 (iii) a low-interest business loan program for ~~qualified social equity applicants;~~ (iv) *a waiver of any*
- 549 *requirements to show proof of funds or current possession and control of the proposed licensed premises*
- 550 *at the time of application; and (v) to the extent practicable, the proportional distribution of licenses*
- 551 *among the applicants set forth in clauses (i) through (vi) in subdivision 13. The Board shall establish a*

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552 *process that prioritizes such applicants based on the number of subdivision 13 criteria categories met*
 553 *and ensures that increased priority is provided to applicants that meet the most criteria categories;*

554 ~~16.~~ 15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal
 555 cultivation of marijuana that promote personal and public safety, including child protection, and
 556 discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

557 ~~17.~~ 16. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
 558 marijuana or ~~retail~~ marijuana products, not inconsistent with the provisions of this chapter, so that such
 559 advertising displaces the illicit market and notifies the public of the location of marijuana establishments.
 560 Such regulations shall be promulgated in accordance with § 4.1-1404;

561 ~~18.~~ 17. Establish restrictions on the number of licenses that a person may be granted to operate a
 562 marijuana establishment in single locality or region; and

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

568 18. Allow micro business licensees to (i) enter into cooperative agreements with other micro business
 569 licensees and (ii) lease space and equipment and cultivate, manufacture, and sell marijuana and
 570 marijuana products on the premises of another licensee.

571 C. The Board may promulgate regulations that:

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

574 a. Retail marijuana stores, ~~400~~ 350;

575 b. Marijuana wholesalers, 25;

576 e. Marijuana manufacturing processing facilities, ~~60~~ 100; and

577 ~~d. Marijuana~~ c. Tier I marijuana cultivation facilities, ~~450~~ 50;

578 d. Tier II marijuana cultivation facilities, 50;

579 e. Tier III marijuana cultivation facilities, 10;

580 f. Tier IV marijuana cultivation facilities, 5;

581 g. Tier V marijuana cultivation facilities, 10; and

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

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

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

591 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed ~~1,500~~ 2,500
 592 square feet of retail floor space.

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

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

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

601 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
 602 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
 603 7, 10, or ~~16~~ 14, and, *except as otherwise provided in § 4.1-603*, shall not promulgate any such
 604 regulation that has not been approved by a majority of the members of the Cannabis Public Health
 605 Advisory Council.

606 G. With regard to regulations governing licensees that have been issued a permit by the Board of
 607 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2
 608 (§ 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.), the Board shall make
 609 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board
 610 of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and
 611 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated
 612 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been
 613 found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are

614 more extensive in scope than similar regulations promulgated pursuant to *other provisions of this*
615 subtitle.

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

617 **§ 4.1-607. Board membership; terms; compensation.**

618 A. The Authority shall be governed by a Board of Directors, which shall consist of ~~five~~ *seven*
619 citizens at large *as follows: five members* appointed by the Governor and confirmed by the affirmative
620 vote of a majority of those voting in each house of the General Assembly *and two members appointed*
621 *by the Joint Rules Committee and confirmed by the affirmative vote of a majority of those voting in*
622 *each house of the General Assembly.* Each appointee shall (i) have been a resident of the
623 Commonwealth for a period of at least three years next preceding his appointment, and his continued
624 residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in
625 business or a related field of study; and (iii) possess a minimum of seven years of demonstrated
626 experience or expertise in the direct management, supervision, or control of a business or legal affairs.
627 *Members shall be appointed in a manner that ensures expertise among the Board members in health,*
628 *law, agriculture, finance, and law enforcement.* Appointees shall reflect the racial, ethnic, gender, and
629 geographic diversity of the Commonwealth. Appointees shall be subject to a background check in
630 accordance with § 4.1-609.

631 B. After the initial staggering of terms, members shall be appointed for a term of five years. All
632 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
633 the unexpired term. No member ~~appointed by the Governor~~ shall be eligible to serve more than two
634 consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive
635 terms. Members of the Board may be removed from office by the Governor for cause, including the
636 improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty,
637 absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in
638 the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

639 C. The Governor shall appoint the chairman and vice-chairman of the Board from among the
640 membership of the Board. The Board may elect other subordinate officers, who need not be members of
641 the Board. The Board may also form committees and advisory councils, which may include
642 representatives who are not members of the Board, to undertake more extensive study and discussion of
643 the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the
644 Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise
645 the rights and perform all duties of the Authority.

646 D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings
647 may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or
648 upon the written request of a majority of the Board members.

649 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
650 expenses for the performance of their official duties as set forth in the general appropriation act for
651 members of the House of Delegates when the General Assembly is not in session, except that the
652 chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses
653 for the performance of his official duties as set forth in the general appropriation act for a member of
654 the Senate of Virginia when the General Assembly is not in session.

655 F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
656 shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the
657 employees of the Authority.

658 **§ 4.1-611. Seed-to-sale tracking system.**

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

664 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

673 B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller
674 to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as

675 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from
 676 the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million
 677 in connection with the administration of this subtitle and to provide for the depreciation on the
 678 buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the
 679 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
 680 appropriation act as follows:

- 681 1. ~~Forty Ten~~ percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
- 682 2. ~~Thirty Sixty~~ percent to the Cannabis Equity Reinvestment Fund established pursuant to
 683 § 2.2-2499.8;
- 684 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which
 685 shall distribute such appropriated funds to community services boards for the purpose of administering
 686 substance use disorder prevention and treatment programs; and
- 687 4. Five percent to public health programs, including public awareness campaigns that are designed to
 688 prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform
 689 the public of other potential risks.

690 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less
 691 local marijuana tax revenues collected under *subsection B of § 4.1-1004* and distributed pursuant to
 692 ~~§ 4.1-614~~ *4.1-1003* and all costs, expenses, and charges authorized by this section.

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

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

707 **§ 4.1-621. Certain information not to be made public.**

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

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

724 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

732 *The question on the ballot shall be:*

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

735 *The referendum shall be held and the results certified as provided in § 24.2-684. In addition to the*
 736 *certifications required by such section, the secretary of the local electoral board shall certify the results*

737 of the referendum to the Board of Directors of the Virginia Cannabis Control Authority and to the
738 governing body of the locality.

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

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

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

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

761 E. Referendums held pursuant to this section shall not apply to or prohibit the licensure and
762 operation of a marijuana establishment by and on the premises of a pharmaceutical processor or
763 cannabis dispensing facility that holds a valid permit issued by the Board pursuant to Chapter 16
764 (§ 4.1-1600 et seq.) prior to November 1, 2024.

765 **§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

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

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

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

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

780 **§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

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

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

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

791 **CHAPTER 7.**
792 **ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.**

793 **§ 4.1-700. Exemptions from licensure.**

794 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
795 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with
796 the provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial
797 hemp that is registered with the Commissioner of Agriculture and Consumer Services pursuant to

798 Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title
 799 3.2; (iii) a person that has been issued a regulated hemp product retail facility registration and is
 800 acting in accordance with the provisions of Title 3.2; (iv) a manufacturer of an edible hemp product
 801 operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person
 802 who cultivates marijuana at home for personal use pursuant to § 4.1-1101. Nothing in this subtitle shall
 803 be construed to (a) prevent any person described in clauses (i) through (iv) from obtaining a license
 804 pursuant to this subtitle, provided such person satisfies applicable licensing requirements; (b) prevent a
 805 licensee from acquiring hemp products from an industrial hemp processor in accordance with the
 806 provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2; or (c) prevent a cultivation, processing,
 807 transporter, or retail licensee from operating on the licensed premises a pharmaceutical processing
 808 facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an industrial hemp processing facility in
 809 accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

810 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

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

815 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting; expiration;
 816 civil penalties.**

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

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

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

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

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

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

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

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

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

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

847 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

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

859 Notwithstanding the provisions of subsection D, electronic records of licensed retail marijuana stores

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

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

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

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

877 CHAPTER 8.

878 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

879 § 4.1-800. **Marijuana cultivation facility license.**

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

887 1. Tier I marijuana cultivation facility license, which shall authorize the licensee to cultivate
888 marijuana indoors or outdoors with a canopy that does not exceed 2,000 square feet.

889 2. Tier II marijuana cultivation facility license, which shall authorize the licensee to cultivate
890 marijuana indoors or outdoors with a canopy that does not exceed 10,000 square feet.

891 3. Tier III marijuana cultivation facility license, which shall authorize the licensee to cultivate
892 marijuana indoors with a canopy that does not exceed 25,000 square feet.

893 4. Tier IV marijuana cultivation facility license, which shall authorize the licensee to cultivate
894 marijuana indoors with a canopy that does not exceed 45,000 square feet.

895 5. Tier V marijuana cultivation facility license, which shall authorize the licensee to cultivate
896 marijuana indoors with a canopy that does not exceed 70,000 square feet.

897 The Board may (i) adjust the canopy of marijuana cultivation facilities within the square footage
898 parameters set forth in this subsection if deemed appropriate by the Board in consideration of (a)
899 market demand, (b) utilization rates, (c) sales data, (d) product transfers, (e) inventory data, and (f) the
900 volume of license applications and issuances or (ii) increase the canopy of a marijuana cultivation
901 facility beyond the square footage parameters set forth in this subsection if the Board determines that
902 such increase will assist or encourage participation by micro businesses in the industry.

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

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

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

915 § 4.1-801. **Marijuana processing facility license.**

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

921 transporters.

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

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

933 **§ 4.1-802. Retail marijuana store license.**

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

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

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

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

946 a. An automated dispensing or vending machine;

947 b. A drive-through sales window;

948 c. An Internet-based sales platform; or

949 d. A delivery service.

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

953 4. A retail marijuana store shall not:

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

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

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

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

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

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

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

976 F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a
 977 permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) shall authorize the licensee to exercise
 978 any privileges set forth in subsection A at the place of business designated in the license, which,
 979 notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five
 980 additional retail establishments of the licensee. Such additional retail establishments shall be located at
 981 the five cannabis dispensing facilities for which the Board has issued a permit pursuant to Chapter 16
 982 (§ 4.1-1600 et seq.) in the health service area in which the pharmaceutical processing facility is located.

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

986 **§ 4.1-803. Marijuana transporter license.**

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

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

997 C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track the
 998 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which
 999 the marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana
 1000 transporter to the point at which the marijuana, marijuana products, plants, or seeds are transferred to
 1001 a marijuana processor, marijuana transporter, retail marijuana store, or marijuana testing facility or
 1002 are disposed of or destroyed.

1003 **§ 4.1-804. Marijuana testing facility license.**

1004 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to
 1005 develop, research, or test marijuana, marijuana products, and other substances.

1006 B. A marijuana testing facility may develop, research, or test marijuana and marijuana products for
 1007 (i) that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or marijuana
 1008 product for personal use as authorized under § 4.1-1100.

1009 C. Neither this subtitle nor the regulations adopted pursuant to this subtitle shall prevent a
 1010 marijuana testing facility from developing, researching, or testing substances that are not marijuana or
 1011 marijuana products for that facility or for another person.

1012 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
 1013 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
 1014 Standardization by a third-party accrediting body.

1015 E. In accordance with the requirements of § 4.1-611, a marijuana testing facility licensee shall track
 1016 all marijuana and marijuana products it receives from a licensee for testing purposes from the point at
 1017 which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility
 1018 to the point at which the marijuana or marijuana products are disposed of or destroyed.

1019 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
 1020 a licensed marijuana cultivation facility, a licensed marijuana processing facility, a licensed marijuana
 1021 transporter, or a licensed retail marijuana store.

1022 G. All areas within the licensed premises of a marijuana testing facility in which marijuana or
 1023 marijuana products are tested or stored shall meet all sanitary standards specified in regulations
 1024 adopted by the Board.

1025 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

1026 A. As used in this section, "interest" means an equity ownership interest or a partial equity
 1027 ownership interest or any other type of financial interest, including being an investor or serving in a
 1028 management position.

1029 B. A person may possess or hold interest in one or any combination of the following licenses
 1030 pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation
 1031 facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility
 1032 license, tier V marijuana cultivation facility license, marijuana processing facility license, marijuana
 1033 transporter license, or retail marijuana store license. Board regulations shall be drawn to ensure that
 1034 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, (i) no
 1035 person shall be granted or hold interest in more than five total licenses, not including marijuana
 1036 transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana cultivation
 1037 facility license and (ii) no person that has been granted or holds interest in a marijuana cultivation
 1038 facility license, marijuana processing facility license, marijuana transporter license, or retail marijuana
 1039 store license shall be issued or hold interest in a marijuana testing facility license.

1040 **§ 4.1-806. Temporary permits required in certain instances.**

1041 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
 1042 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board
 1043 and who has become lawfully entitled to the possession of the licensed premises to continue to operate

1044 *the marijuana establishment to the same extent as the license holder for a period not to exceed 60 days*
1045 *or for such longer period as determined by the Board. Such permit shall be temporary and shall confer*
1046 *the privileges of any licenses held by the previous owner to the extent determined by the Board. Such*
1047 *temporary permit may be issued in advance, conditioned on the requirements in this subsection.*

1048 *B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board for*
1049 *any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a*
1050 *temporary permit shall be effective upon service of the order of revocation upon the permittee or upon*
1051 *the expiration of three business days after the order of the revocation has been mailed to the permittee*
1052 *at either his residence or the address given for the business in the permit application. No further notice*
1053 *shall be required.*

1054 **§ 4.1-807. Licensee shall maintain possession of premises.**

1055 *As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises*
1056 *of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease,*
1057 *rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the*
1058 *premises. If the licensee fails to maintain possession of the licensed premises, the license shall be*
1059 *revoked by the Board.*

1060 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

1061 *A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting*
1062 *of the license would be detrimental to the interest, morals, safety, or welfare of the public or would be*
1063 *inconsistent with the provisions of this subtitle.*

1064 *B. The Board shall refuse to grant any license if it has reasonable cause to believe that:*

1065 *1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant*
1066 *is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or*
1067 *if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its*
1068 *capital stock, or if the applicant is a limited liability company, any member-manager or any member*
1069 *owning 10 percent or more of the membership interest of the limited liability company:*

1070 *a. Is not 21 years of age or older;*

1071 *b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude*
1072 *under the laws of any state or of the United States within seven years of the date of the application or*
1073 *has not completed all terms of sentencing and probation resulting from any such conviction;*

1074 *c. Knowingly employs or allows to volunteer someone younger than 21 years of age;*

1075 *d. Is not the legitimate owner of the business proposed to be licensed, or other persons have*
1076 *ownership interests in the business that have not been disclosed;*

1077 *e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business*
1078 *proposed to be licensed;*

1079 *f. Has misrepresented a material fact in applying to the Board for a license;*

1080 *g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or*
1081 *governmental agency or authority, by making or filing any report, document, or tax return required by*
1082 *statute or regulation that is fraudulent or contains a false representation of a material fact; or has*
1083 *willfully deceived or attempted to deceive the Board, or any federal, state, or local government or*
1084 *governmental agency or authority, by making or maintaining business records required by statute or*
1085 *regulation that are false or fraudulent;*

1086 *h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the*
1087 *time his application for a license is pending;*

1088 *i. Is a full-time or part-time employee of the Department of State Police or of a police department or*
1089 *sheriff's office that is a part of or administered by the Commonwealth or any political subdivision*
1090 *thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the*
1091 *Commonwealth;*

1092 *j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the*
1093 *Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or*

1094 *k. Is physically unable to carry on the business for which the application for a license is filed or has*
1095 *been adjudicated incapacitated.*

1096 *2. The applicant is a member or employee of the Board or is a corporation or other business entity*
1097 *in which a member or employee of the Board is a stockholder or has any other economic interest.*
1098 *Whenever any other elected or appointed official of the Commonwealth or any political subdivision*
1099 *thereof applies for such a license or continuance thereof, he shall state on the application the official*
1100 *position he holds, and whenever a corporation or other business entity in which any such official is a*
1101 *stockholder or has any other economic interest applies for such a license, it shall state on the*
1102 *application the full economic interests of each such official in such corporation or other business entity.*

1103 *3. The place to be occupied by the applicant:*

1104 *a. Does not conform to the requirements of the governing body of the county, city, or town in which*
1105 *such place is located with respect to sanitation, health, construction, or equipment, or to any similar*

1106 requirements established by the laws of the Commonwealth or by Board regulation;
1107 b. Is so located that granting a license and operation thereunder by the applicant would result in
1108 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local
1109 ordinances relating to peace and good order;

1110 c. When the applicant is applying for a retail marijuana store license, is so located with respect to
1111 any place of religious worship; hospital; public, private, or parochial school or institution of higher
1112 education; public or private playground or other similar recreational facility; child day program;
1113 substance use disorder treatment facility; or federal, state, or local government-operated facility that the
1114 operation of such place under such license will adversely affect or interfere with the normal, orderly
1115 conduct of the affairs of such facilities, programs, or institutions;

1116 d. When the applicant is applying for a retail marijuana store license, is so located with respect to
1117 any residence or residential area that the operation of such place under such license will adversely
1118 affect real property values or substantially interfere with the usual quietude and tranquility of such
1119 residence or residential area;

1120 e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet of
1121 an existing retail marijuana store;

1122 f. When the applicant is applying for a retail marijuana store license, is so constructed, arranged, or
1123 illuminated that law-enforcement officers and special agents of the Board are prevented from ready
1124 access to and reasonable observation of any room or area within which marijuana or marijuana
1125 products are to be sold; or

1126 g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured,
1127 sold, or used.

1128 Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or
1129 premises until the final stage of the license approval process.

1130 4. The number of licenses existing in the locality is such that the granting of a license is detrimental
1131 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
1132 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail
1133 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and
1134 number of all licenses existent in the particular county, city, or town and the immediate neighborhood
1135 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in
1136 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by
1137 a local governing body or local residents.

1138 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
1139 political subdivision thereof that warrants refusal by the Board to grant any license.

1140 6. The Board is not authorized under this subtitle to grant such license.

1141 **§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
1142 **exceptions.**

1143 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
1144 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
1145 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided
1146 by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of
1147 Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the
1148 circuit court shall not be suspended, stayed, or modified by such circuit court pending appeal to the
1149 Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

1150 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
1151 license, provided that such:

- 1152 1. License for the applicant has been refused or revoked within a period of 12 months;
- 1153 2. License for any premises has been refused or revoked at that location within a period of 12
1154 months; or

1155 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted by
1156 the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there
1157 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
1158 alleging a violation of this subtitle.

1159 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time of
1160 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
1161 the Board may refuse a hearing on an application for a new license until after the date on which the
1162 suspension period would have been executed had the license not been permitted to expire.

CHAPTER 9.

ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

1165 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

1166 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1167 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
1168 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
1169 the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its
1170 capital stock, or if the licensee is a limited liability company, any member-manager or any member
1171 owning 10 percent or more of the membership interest of the limited liability company:

1172 a. Has misrepresented a material fact in applying to the Board for such license;

1173 b. Within the five years immediately preceding the date of the hearing held in accordance with
1174 § 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et
1175 seq.), or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii)
1176 violated or failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or
1177 refused to comply with any of the conditions or restrictions of the license granted by the Board;

1178 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
1179 under the laws of any state or of the United States;

1180 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
1181 other persons have ownership interests in the business that have not been disclosed;

1182 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
1183 conducted under the license granted by the Board;

1184 f. Has been intoxicated or under the influence of some self-administered drug while upon the
1185 licensed premises;

1186 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
1187 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1
1188 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

1189 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
1190 such licensed premises;

1191 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
1192 product except as provided under this subtitle;

1193 j. Is physically unable to carry on the business conducted under such license or has been adjudicated
1194 incapacitated;

1195 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

1196 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly
1197 allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use,
1198 controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia
1199 as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7
1200 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of
1201 § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
1202 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
1203 any conduct related to the operation of the licensed business that facilitates the commission of any of
1204 the offenses set forth herein;

1205 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
1206 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any
1207 portion of public property immediately adjacent to the licensed premises from becoming a place where
1208 patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et
1209 seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5
1210 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2
1211 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of
1212 Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of
1213 Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to
1214 reasonably be deemed a continuing threat to the public safety;

1215 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
1216 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any
1217 premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii)
1218 any portion of public property immediately adjacent to the licensed premises; or

1219 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1220 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1221 2. The place occupied by the licensee:

1222 a. Does not conform to the requirements of the governing body of the county, city, or town in which
1223 such establishment is located, with respect to sanitation, health, construction, or equipment, or to any
1224 similar requirements established by the laws of the Commonwealth or by Board regulations;

1225 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

1226 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
1227 prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are
1228 regularly used or distributed. The Board may consider the general reputation in the community of such

1229 establishment in addition to any other competent evidence in making such determination.
1230 3. The licensee or any employee of the licensee discriminated against any member of the Armed
1231 Forces of the United States by prices charged or otherwise.
1232 4. Any cause exists for which the Board would have been entitled to refuse to grant such license had
1233 the facts been known.
1234 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
1235 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is
1236 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,
1237 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for
1238 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered
1239 into a payment plan approved by the same locality to settle the outstanding liability.
1240 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of
1241 its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
1242 licensed premises in the Commonwealth.
1243 7. Any other cause authorized by this subtitle.
1244 B. The Board shall promulgate regulations regarding suspension and revocation standards and
1245 protocols.
1246 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**
1247 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
1248 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
1249 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
1250 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
1251 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any
1252 portion of public property immediately adjacent to the licensed premises, and the Board finds that there
1253 exists a continuing threat to public safety and that summary suspension of the license or permit is
1254 justified to protect the health, safety, or welfare of the public.
1255 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
1256 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
1257 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify
1258 the licensee of its intention to temporarily suspend his license pending the outcome of a formal
1259 investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the
1260 48-hour period, the licensee may petition the Board for a restricted license pending the results of the
1261 formal investigation and proceedings for disciplinary review. If the Board determines that a restricted
1262 license is warranted, the Board shall have discretion to impose appropriate restrictions based on the
1263 facts presented.
1264 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a
1265 formal investigation. The formal investigation shall be completed within 10 days of its commencement
1266 and the findings reported immediately to the Secretary of the Board. If, following the formal
1267 investigation, the Secretary of the Board determines that suspension of the license is warranted, a
1268 hearing shall be held within five days of the completion of the formal investigation. A decision shall be
1269 rendered within 10 days of the conclusion of the hearing. If a decision is not rendered within 10 days of
1270 the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any
1271 appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20
1272 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion
1273 of the appeal hearing.
1274 D. Service of any order of suspension issued pursuant to this section shall be made by a special
1275 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take
1276 effect immediately upon service.
1277 E. This section shall not apply to temporary permits granted under § 4.1-806.
1278 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**
1279 The Board shall suspend or revoke any license if it finds that:
1280 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
1281 of a gambling device, upon the premises for which the Board has granted a retail marijuana store
1282 license.
1283 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
1284 government or governmental agency or authority, by making or filing any report, document, or tax
1285 return required by statute or regulation that is fraudulent or contains a willful or knowing false
1286 representation of a material fact or has willfully deceived or attempted to deceive the Board, or any
1287 federal, state, or local government or governmental agency or authority, by making or maintaining
1288 business records required by statute or regulation that are false or fraudulent.
1289 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil penalties.**

1290 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
 1291 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
 1292 Administrative Process Act (§ 2.2-4000 et seq.).

1293 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,
 1294 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the
 1295 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or
 1296 present employee of the licensee to any law-enforcement officer, the existence of which is known by the
 1297 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
 1298 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
 1299 places, or copies or portions thereof, that are within the possession, custody, or control of the Board
 1300 and upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle
 1301 against the licensee. In addition, any subpoena for the production of documents issued to any person at
 1302 the request of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the
 1303 documents sought within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1304 If the Board fails to provide for inspection or copying under this section for the licensee after a
 1305 written request, the Board shall be prohibited from introducing into evidence any items the licensee
 1306 would have lawfully been entitled to inspect or copy under this section.

1307 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall be
 1308 subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
 1309 review shall extend to the entire evidential record of the proceedings provided by the Board in
 1310 accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any
 1311 order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall
 1312 not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
 1313 Neither mandamus nor injunction shall lie in any such case.

1314 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such
 1315 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
 1316 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
 1317 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil
 1318 penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the
 1319 date of the violation or \$5,000 for the second or subsequent violation occurring within five years
 1320 immediately preceding the date of the second or subsequent violation. However, if the violation involved
 1321 selling marijuana or marijuana products to a person prohibited from purchasing marijuana or
 1322 marijuana products or allowing consumption of marijuana or marijuana products, the Board may
 1323 impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years
 1324 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation
 1325 occurring within five years immediately preceding the date of the second or subsequent violation in lieu
 1326 of such suspension or any portion thereof, or both. The Board may also impose a requirement that the
 1327 licensee pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and
 1328 in holding the proceeding resulting in the violation in addition to any suspension or civil penalty
 1329 incurred.

1330 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
 1331 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept
 1332 a consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
 1333 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a
 1334 hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the
 1335 proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed
 1336 privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or
 1337 any portion of the suspension as applicable, or (4) proceed to a hearing.

1338 D. The Board shall, by regulation or written order:

1339 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
 1340 initial hearing;

1341 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
 1342 suspension may be accepted for a first offense occurring within three years immediately preceding the
 1343 date of the violation;

1344 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil
 1345 penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to its
 1346 employees marijuana seller training certified in advance by the Board;

1347 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
 1348 license and the civil charge acceptable in lieu of such suspension; and

1349 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
 1350 licensee has had no prior violations within five years immediately preceding the date of the violation.

1351 No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this

1352 subtitle or Board regulations.

1353 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on hand;**
1354 **termination.**

1355 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee at
1356 the time the license of such person is suspended or revoked may be disposed of as follows:

1357 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products upon
1358 permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board; or

1359 2. Destroyed by the Board or its designee.

1360 B. All marijuana or marijuana products owned by or in the possession of any person whose license
1361 is suspended or revoked shall be disposed of by such person in accordance with the provisions of this
1362 section within 60 days from the date of such suspension or revocation.

1363 C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose
1364 licenses have been terminated other than by suspension or revocation may be disposed of in accordance
1365 with subsection A within such time as the Board deems proper. Such period shall not be less than 60
1366 days.

1367 D. All marijuana or marijuana products owned by or remaining in the possession of any person
1368 described in subsection A or C after the expiration of such period shall be deemed contraband and
1369 forfeited to the Commonwealth in accordance with the provisions of § 4.1-1303.

1370 **CHAPTER 10.**

1371 **ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.**

1372 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

1373 A. Every person intending to apply for any license authorized by this subtitle shall file with the
1374 Board an application on forms provided by the Board and a statement in writing by the applicant
1375 swearing and affirming that all of the information contained therein is true.

1376 B. Such applications, including applications for renewal, shall include any information necessary for
1377 the Board to determine whether the applicant meets or continues to meet the criteria set forth in
1378 subdivision B 13 of § 4.1-606.

1379 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by
1380 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
1381 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
1382 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of
1383 a pending application or inspection, such license shall authorize the licensee to purchase marijuana,
1384 marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions
1385 of this subtitle; however, the licensee shall not sell marijuana, marijuana products, immature marijuana
1386 plants, or marijuana seeds until an inspection is completed.

1387 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his
1388 application with the Board on the front door of the building, place, or room where he proposes to
1389 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a
1390 size and contain such information as required by the Board, including a statement that any objections
1391 shall be submitted to the Board not more than 30 days following initial posting of the notice required
1392 pursuant to this subsection.

1393 The applicant shall also cause notice to be published at least once a week for two consecutive weeks
1394 in a newspaper published in or having a general circulation in the county, city, or town wherein such
1395 applicant proposes to engage in such business. Such notice shall contain such information as required
1396 by the Board, including a statement that any objections to the issuance of the license be submitted to
1397 the Board not later than 30 days from the date of the initial newspaper publication.

1398 E. The Board shall conduct a background investigation on each license applicant, which shall
1399 include a criminal history records search and may include a fingerprint-based national criminal history
1400 records search and a requirement for the provision of personal descriptive information to be forwarded
1401 through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose
1402 of obtaining criminal history record information regarding such applicant. The Central Criminal
1403 Records Exchange shall forward the results of the criminal history background check to the Board or its
1404 designee, which shall be a governmental entity.

1405 However, the Board may waive, for good cause shown, the requirement for a criminal history
1406 records search and completed personal data form for officers, directors, nonmanaging members, or
1407 limited partners of any applicant corporation, limited liability company, or limited partnership. In
1408 considering criminal history record information, the Board shall not disqualify an applicant because of
1409 a past conviction for a marijuana-related offense.

1410 F. The Board shall notify the local governing body of each license application through the town
1411 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
1412 shall submit objections to the granting of a license within 30 days of the filing of the application.

1413 G. Each applicant shall pay the required application fee at the time the application is filed. The
1414 license application fee shall be determined by the Board and shall be in addition to the actual cost
1415 charged to the Department of State Police by the Federal Bureau of Investigation or the Central
1416 Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation
1417 or the Central Criminal Records Exchange for each criminal history records search required by the
1418 Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and
1419 shall not be refunded.

1420 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
1421 all licensees shall file and maintain with the Board a current, accurate record of the information
1422 required by the Board pursuant to subsection A and notify the Board of any changes to such
1423 information in accordance with Board regulations.

1424 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
1425 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1426 Commonwealth as otherwise provided by law.

1427 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for
1428 applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied
1429 by the number of months for which the permit is granted.

1430 J. The Board shall have the authority to increase state license fees. The Board shall set the amount
1431 of such increases on the basis of the consumer price index and shall not increase fees more than once
1432 every three years. Prior to implementing any state license fee increase, the Board shall provide notice to
1433 all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new
1434 fee that would be required for any license affected by the Board's proposed fee increases. Such notice
1435 shall be provided on or before November 1 in any year in which the Board has decided to increase
1436 state license fees, and such increases shall become effective July 1 of the following year.

1437 **§ 4.1-1001. Fees for state licenses.**

1438 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
1439 the costs of regulating the marijuana establishment.

1440 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall be
1441 equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by the
1442 number of months in the license period, and then increased by five percent. Such fee shall not be
1443 refundable, except as provided in § 4.1-1002.

1444 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
1445 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by
1446 this subtitle, shall be liable to state merchants' license taxation, state restaurant license taxation, and
1447 other state taxation.

1448 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
1449 purchased in person from the Board if such license is available for purchase online.

1450 **§ 4.1-1002. Refund of state license fee.**

1451 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
1452 amounts collected through erroneous assessments or collected as fees on licenses applications that are
1453 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
1454 subsequently merged or changed into another license during the same license period. No refund shall be
1455 made of any such amount, however, unless made within three years from the date of collection of the
1456 same.

1457 B. In any case where a licensee has changed its name or form of organization during a license
1458 period without any change being made in its ownership, and because of such change is required to pay
1459 an additional license fee for such period, the Board shall refund to such licensee the amount of such fee
1460 so paid in excess of the required license fee for such period.

1461 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
1462 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in
1463 the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm,
1464 or similar natural disaster or phenomenon.

1465 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of
1466 moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1467 **§ 4.1-1003. Marijuana taxes; exceptions.**

1468 A. A tax of eight percent is levied on the sale in the Commonwealth of any marijuana, marijuana
1469 products, or marijuana paraphernalia. Subject to the provisions of subsection C, the tax shall be in
1470 addition to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any
1471 other provision of federal, state, or local law. The tax shall not apply to any sale:

1472 1. From a marijuana establishment to another marijuana establishment.

1473 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1474 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1

1475 (§ 3.2-4112 et seq.) of Title 3.2.

1476 4. Of a hemp product.

1477 B. Any locality may by ordinance levy a 2.5 percent tax on any sale taxable under subsection A.
 1478 Subject to subsection C, the tax shall be in addition to any local sales tax imposed under the Virginia
 1479 Retail Sales and Use Tax Act (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1
 1480 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed on meals under
 1481 § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality shall not
 1482 impose any other tax on a sale taxable under subsection A. Nothing in this subsection shall be
 1483 construed to (i) prohibit a locality from imposing any tax authorized by law on a person or property
 1484 regulated under this subtitle or (ii) limit the authority of any locality to impose a license or privilege tax
 1485 or fee on a business engaged in whole or in part in sales taxable under this subsection A if such tax or
 1486 fee is (a) based on an annual or per-event flat fee authorized by law or (b) is an annual license or
 1487 privilege tax authorized by law and such tax includes sales or receipts taxable under subsection A in its
 1488 taxable measure.

1489 If a locality imposes a tax under this subsection, such tax shall be irrevocable. If a town imposes a
 1490 tax under this subsection, any tax imposed by its surrounding county under this subsection shall not
 1491 apply within the limits of the town.

1492 Any locality that enacts an ordinance pursuant to this subsection shall, within 30 days, notify the
 1493 Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance
 1494 shall take effect on the first day of the second month following its enactment.

1495 C. Any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale
 1496 taxable under subsection A shall be limited to a 1.125 percent tax which shall be distributed as follows:
 1497 (i) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B,
 1498 C, and D of § 58.1-638 and (ii) the revenue from the tax at the rate of 0.125 percent shall be
 1499 distributed as provided in subdivision F 2 of § 58.1-638. No other tax shall be levied pursuant to the
 1500 Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) on a sale taxable under subsection A.

1501 D. All revenues remitted to the Authority under this subsection shall be disposed of as provided in
 1502 § 4.1-614.

1503 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1504 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All
 1505 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall
 1506 not be liable for collecting or remitting the taxes or filing a return.

1507 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall
 1508 file a return under oath with the Authority and pay any taxes due. Upon written application by a person
 1509 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of
 1510 the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall
 1511 toll the accrual of any interest or penalties under § 4.1-1007.

1512 C. The Authority may accept payment by any commercially acceptable means, including cash, checks,
 1513 credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due under
 1514 this subtitle. The Board may assess a service charge for the use of a credit or debit card.

1515 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
 1516 card, or automated clearinghouse transfer information and use such information for future payments of
 1517 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any
 1518 payments made under this subsection. The Authority may procure the services of a third-party vendor
 1519 for the secure storage of information collected pursuant to this subsection.

1520 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the
 1521 business, such person shall make a final return and payment within 15 days after the date of selling or
 1522 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the
 1523 purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such
 1524 former owner produces a receipt from the Authority showing payment or a certificate stating that no
 1525 taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the
 1526 purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes,
 1527 interest, and penalties due and unpaid on account of the operation of the business by any former owner.

1528 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a
 1529 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due
 1530 under § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

1531 **§ 4.1-1005. Bonds.**

1532 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
 1533 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such
 1534 surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or that
 1535 may become due from such person. In lieu of such bond, securities approved by the Authority may be

1536 deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer,
1537 and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it
1538 becomes necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth.
1539 Upon any such sale, the surplus, if any, above the amounts due shall be returned to the person who
1540 deposited the securities.

1541 **§ 4.1-1006. Refunds.**

1542 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to
1543 § 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise
1544 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer;
1545 (ii) destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the
1546 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,
1547 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a
1548 refund payment from the state treasury to such extent as may be proper.

1549 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
1550 items that have been sold by such person in such manner as to be exempt from the tax, the Authority
1551 shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to
1552 such extent as may be proper.

1553 C. In the event purchases are returned to the seller by the buyer after a tax imposed under
1554 § 4.1-1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a
1555 refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The
1556 amount of tax so refunded to the seller shall not, however, include the tax paid upon any amount
1557 retained by the seller after such return of merchandise. In case the tax has not been remitted by the
1558 seller, the seller may deduct the same in submitting his return.

1559 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
1560 **penalties.**

1561 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which
1562 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud
1563 the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for
1564 the collection of such taxes may be begun without assessment, at any time within six years from such
1565 date. The Authority shall not examine any person's records beyond the three-year period of limitations
1566 unless it has reasonable evidence of fraud or reasonable cause to believe that such person was required
1567 by law to file a return and failed to do so.

1568 B. If any person fails to file a return as required by this section, or files a return that is false or
1569 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such
1570 person and assess the tax, plus any applicable interest and penalties. The Authority shall give such
1571 person 10 days' notice requiring such person to provide any records as it may require relating to the
1572 business of such person for the taxable period. The Authority may require such person or the agents
1573 and employees of such person to give testimony or to answer interrogatories under oath administered by
1574 the Authority respecting taxable sales, the filing of the return, and any other relevant information. If any
1575 person fails to file a required return, refuses to provide required records, or refuses to answer
1576 interrogatories from the Authority, the Authority may make an estimated assessment based upon the
1577 information available to it and issue a memorandum of lien under subsection C for the collection of any
1578 taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

1579 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay
1580 within 30 days after the due date, taking into account any extensions granted by the Authority, the
1581 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
1582 the person's place of business is located or in which the person resides. If the person has no place of
1583 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
1584 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
1585 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
1586 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
1587 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias
1588 may issue at any time after the memorandum is filed. The lien on real estate shall become effective at
1589 the time the memorandum is filed in the jurisdiction in which the real estate is located. No
1590 memorandum of lien shall be filed unless the person is first given 10 or more days' prior notice of
1591 intent to file a lien; however, in those instances where the Authority determines that the collection of
1592 any tax, penalties, or interest required to be paid pursuant to law will be jeopardized by the provision
1593 of such notice, notification may be provided to the person concurrent with the filing of the memorandum
1594 of lien. Such notice shall be given to the person at his last known address.

1595 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
1596 appeal under § 4.1-1008.

1597 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the

1598 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in
 1599 filing or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint
 1600 on each of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied
 1601 or satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri
 1602 facias to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises
 1603 without prior approval of the Authority. In the event that the person against whom the distraint has
 1604 been applied subsequently appeals under § 4.1-1008, the person shall have the right to post bond
 1605 equaling the amount of liability in lieu of payment until the appeal is resolved.

1606 4. A person may petition the Authority after a memorandum of lien has been filed under this
 1607 subsection if the person alleges an error in the filing of the lien. The Authority shall make a
 1608 determination on such petition within 14 days. If the Authority determines that the filing was erroneous,
 1609 it shall issue a certificate of release of the lien within seven days after such determination is made.

1610 **§ 4.1-1008. Appeals.**

1611 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the
 1612 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to
 1613 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
 1614 evidential record of the proceedings provided by the Authority in accordance with the Administrative
 1615 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court.
 1616 Notwithstanding § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended,
 1617 stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus
 1618 nor injunction shall lie in any such case.

1619 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or
 1620 older lawful; penalties.**

1621 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
 1622 person 21 years of age or older may lawfully possess on his person or in any public place not more
 1623 than ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as
 1624 determined by regulation promulgated by the Board.

1625 B. Any person who possesses on his person or in any public place marijuana or marijuana products
 1626 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25
 1627 except as otherwise provided in this section. The penalty for any violations of this section by an adult
 1628 shall be prepayable according to the procedures in § 16.1-69.40:2.

1629 C. With the exception of possession by a person in his residence or possession by a licensee in the
 1630 course of his duties related to such licensee's marijuana establishment, any person who possesses on his
 1631 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an
 1632 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty
 1633 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more
 1634 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation
 1635 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than
 1636 one year nor more than 10 years and a fine of not more than \$250,000, or both.

1637 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
 1638 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
 1639 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
 1640 necessary for the performance of their duties.

1641 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1642 A. Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a person 21 years of age or
 1643 older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
 1644 no point shall a household contain more than four marijuana plants. For purposes of this section, a
 1645 "household" means those individuals, whether related or not, who live in the same house or other place
 1646 of residence.

1647 A person may only cultivate marijuana plants pursuant to this section at such person's main place of
 1648 residence.

1649 A violation of this subsection shall be punishable as follows:

1650 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
 1651 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a
 1652 Class 2 misdemeanor for a third and any subsequent offense;

1653 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1654 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1655 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment
 1656 of not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.

1657 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1658 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars,

1659 or other optical aids;

1660 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1661 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
1662 identification number, and a notation that the marijuana plant is being grown for personal use as
1663 authorized under this section.

1664 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The
1665 penalty for any violations of this section by an adult shall be prepayable according to the procedures in
1666 § 16.1-69.40:2.

1667 ~~C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner
1668 of a property or parcel or tract of land may not intentionally or knowingly allow another person to
1669 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.~~

1670 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana products;
1671 conspiracy; penalties.**

1672 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or
1673 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
1674 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1675 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1676 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
1677 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to
1678 such conspiracy is guilty of a Class 6 felony.

1679 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1680 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
1681 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
1682 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
1683 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
1684 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for
1685 goods or services.

1686 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
1687 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
1688 subsection C, he is guilty of a Class 2 misdemeanor.

1689 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1690 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
1691 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1692 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of legal
1693 age; penalties.**

1694 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give,
1695 or distribute any marijuana or marijuana products to any individual when at the time of such sale he
1696 knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21
1697 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a
1698 Class 1 misdemeanor.

1699 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any
1700 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time
1701 of the sale does not require the individual to present bona fide evidence of legal age indicating that the
1702 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of
1703 legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license
1704 issued by any state of the United States or the District of Columbia, military identification card, United
1705 States passport or foreign government visa, unexpired special identification card issued by the
1706 Department of Motor Vehicles, or any other valid government-issued identification card bearing the
1707 individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that
1708 reasonably appears to match the appearance of the purchaser. A student identification card shall not
1709 constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a
1710 violation of this subsection is guilty of a Class 3 misdemeanor.

1711 C. No person shall be convicted of both subsections A and B for the same sale.

1712 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;
1713 exceptions; penalties; forfeiture; treatment and education programs and services.**

1714 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-1104
1715 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or
1716 marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local
1717 law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary
1718 in the performance of his duties. Such person may be prosecuted either in the county or city in which
1719 the marijuana or marijuana products were possessed or consumed or in the county or city in which the
1720 person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

1721 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no
 1722 more than \$25 and shall be ordered to enter a substance abuse treatment or education program or
 1723 both, if available, that in the opinion of the court best suits the needs of the accused.

1724 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
 1725 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
 1726 accused to enter a substance abuse treatment or education program or both, if available, that in the
 1727 opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273,
 1728 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1729 D. Any such substance abuse treatment or education program to which a juvenile is ordered
 1730 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
 1731 Health and Developmental Services or (ii) a similar program available through a facility or program
 1732 operated by or under contract with the Department of Juvenile Justice or a locally operated court
 1733 services unit or a program funded through the Virginia Juvenile Community Crime Control Act
 1734 (§ 16.1-309.2 et seq.). Any such substance abuse treatment or education program to which a person 18
 1735 years of age or older is ordered pursuant to this section shall be provided by (a) a program licensed by
 1736 the Department of Behavioral Health and Developmental Services or (b) a program or services made
 1737 available through a community-based probation services agency established pursuant to Article 9
 1738 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an
 1739 offender is ordered to a local community-based probation services agency, the local community-based
 1740 probation services agency shall be responsible for providing for services or referring the offender to
 1741 education or treatment services as a condition of probation.

1742 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
 1743 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21
 1744 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to
 1745 operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not
 1746 limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other
 1747 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another
 1748 jurisdiction, birth certificate, or student identification card of another person in order to establish a
 1749 false identification or false age for himself to consume, purchase, or attempt to consume or purchase
 1750 marijuana or marijuana products. Any person convicted of a violation of this subsection is guilty of a
 1751 Class 1 misdemeanor.

1752 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
 1753 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1754 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or
 1755 local law-enforcement agency of a violation or suspected violation of this section shall be accorded
 1756 immunity from an administrative penalty for a violation of § 4.1-1104.

1757 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be sold;**
 1758 **penalties; forfeiture.**

1759 A. Any person who purchases marijuana or marijuana products for another person and at the time
 1760 of such purchase knows or has reason to believe that the person for whom the marijuana or marijuana
 1761 products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1762 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of
 1763 marijuana or marijuana products to, another person when he knows or has reason to know that such
 1764 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer
 1765 when possession of marijuana or marijuana products is necessary in the performance of his duties, is
 1766 guilty of a Class 1 misdemeanor.

1767 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
 1768 contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1769 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1770 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
 1771 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
 1772 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
 1773 common nuisances.

1774 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
 1775 nuisance.

1776 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1777 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
 1778 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon
 1779 proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or
 1780 other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving
 1781 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned

1782 *that the premises shall not be used for unlawful purposes, or in violation of the provisions of this*
 1783 *subtitle for a period of five years, turn the same over to its owner or lessor, or proceeding may be had*
 1784 *in equity as provided in § 4.1-1300.*

1785 *C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or*
 1786 *lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and*
 1787 *(ii) had the right, because of such unlawful use, to enter and repossess the property.*

1788 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1789 *Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,*
 1790 *dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its*
 1791 *original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a*
 1792 *law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,*
 1793 *processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered*
 1794 *a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class*
 1795 *5 felony.*

1796 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1797 *No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or*
 1798 *any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and*
 1799 *decorum of any hearing held and conducted by the Board, any Board member, or any agent authorized*
 1800 *by the Board to hold and conduct such hearing.*

1801 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1802 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1803 *No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional*
 1804 *correctional facility or any person committed to the Department of Juvenile Justice in any juvenile*
 1805 *correctional center any marijuana or marijuana products.*

1806 *Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1807 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1808 *A. No person shall separate plant resin by butane extraction or another method that utilizes a*
 1809 *substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within*
 1810 *the curtilage of any residential structure.*

1811 *B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.*

1812 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1813 *No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another*
 1814 *in doing, or attempting to do, any of the things prohibited by this subtitle.*

1815 *On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may*
 1816 *find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as*
 1817 *if the defendant were solely guilty of such violation.*

1818 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1819 *Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in the*
 1820 *case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be*
 1821 *proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation*
 1822 *under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when*
 1823 *such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to*
 1824 *this section shall be in a form the same as the uniform summons for motor vehicle law violations as*
 1825 *prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be*
 1826 *deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

1827 **CHAPTER 12.**

1828 **PROHIBITED PRACTICES BY LICENSEES.**

1829 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1830 *A. No licensee or any agent or employee of such licensee shall:*

1831 *1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other*
 1832 *than that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;*

1833 *2. Sell marijuana or marijuana products to any person other than a person to whom such license or*
 1834 *this subtitle authorizes him to sell;*

1835 *3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or*
 1836 *this subtitle authorizes him to sell, but in any place or in any manner other than such license or this*
 1837 *subtitle authorizes him to cultivate, process, transport, sell, or test;*

1838 *4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden by*
 1839 *this subtitle;*

1840 *5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or*
 1841 *marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test*
 1842 *by such license or by this subtitle;*

1843 *6. Keep any marijuana or marijuana product other than in the container in which it was purchased*

- 1844 by him; or
- 1845 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.
- 1846 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.
- 1847 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**
- 1848 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
- 1849 employee shall use or consume any marijuana or marijuana products (i) on the licensed premises,
- 1850 except for certain sampling for quality control purposes in accordance with Board regulations or (ii)
- 1851 while on duty and in a position that is involved in the selling of marijuana or marijuana products to
- 1852 consumers.
- 1853 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana
- 1854 or marijuana products.
- 1855 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount
- 1856 not to exceed \$500.
- 1857 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person without**
- 1858 **a license; penalty.**
- 1859 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
- 1860 resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds
- 1861 purchased from anyone other than a marijuana cultivation facility or marijuana processing facility.
- 1862 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.
- 1863 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**
- 1864 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from one
- 1865 licensed place of business to another licensed place of business unless such transfer is completed by a
- 1866 marijuana transporter licensee.
- 1867 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.
- 1868 **§ 4.1-1204. Illegal advertising materials; civil penalty.**
- 1869 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to any
- 1870 licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
- 1871 decorations under circumstances prohibited by this title or Board regulations.
- 1872 Any person found by the Board to have violated this section shall be subject to a civil penalty as
- 1873 authorized in § 4.1-903.
- 1874 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts or**
- 1875 **to allow examination and inspection; penalty.**
- 1876 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
- 1877 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or
- 1878 (iii) allow such records, invoices, and accounts or his place of business to be examined and inspected in
- 1879 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
- 1880 misdemeanor.
- 1881 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
- 1882 may suspend or revoke any license of such licensee that was issued by the Authority.
- 1883 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**
- 1884 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due. No
- 1885 retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or
- 1886 marijuana products on which such retailer has reason to know such tax has not been paid and may not
- 1887 be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.
- 1888 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
- 1889 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for
- 1890 not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof,
- 1891 during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.
- 1892 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
- 1893 Commonwealth of any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the
- 1894 amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty
- 1895 imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
- 1896 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
- 1897 actual amount.
- 1898 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the
- 1899 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount
- 1900 due within five days after the Authority gives it notice that such check was returned unpaid, the person
- 1901 that tendered the check is guilty of a violation of § 18.2-182.1.
- 1902 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
- 1903 manner as if they were a part of the tax imposed.
- 1904 **§ 4.1-1300. Enjoining nuisances.**

1905 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney for
 1906 the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in
 1907 § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
 1908 nuisance.

1909 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
 1910 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
 1911 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such
 1912 house, building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an
 1913 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and
 1914 restrain the owners and tenants and their agents and employees, and any person connected with such
 1915 house, building, or other place, and all persons whomsoever from cultivating, processing, storing,
 1916 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The
 1917 injunction shall also restrain all persons from removing any marijuana or marijuana products then on
 1918 such premises until the further order of the court. If the court is satisfied that the material allegations of
 1919 the bill are true, although the premises complained of may not then be unlawfully used, it shall continue
 1920 the injunction against such place for a period of time as the court deems proper. The injunction may be
 1921 dissolved if a proper case is shown for dissolution.

1922 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to forfeiture.**

1923 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,
 1924 all marijuana or marijuana products and materials used in their manufacture or processing, and all
 1925 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or
 1926 in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as
 1927 described in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that
 1928 such person is using, to aid such person in the unlawful cultivation, manufacture, processing,
 1929 transportation, or sale of marijuana or marijuana products, or found in the possession of such person,
 1930 or any horse, mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature
 1931 whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana products
 1932 are being unlawfully manufactured or processed and where such animal or vehicle is being used to aid
 1933 in the unlawful manufacture or processing, shall be deemed contraband and shall be forfeited to the
 1934 Commonwealth.

1935 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with
 1936 § 4.1-1303 for all such property except motor vehicles, which proceedings shall be in accordance with
 1937 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1938 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

1939 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
 1940 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1941 B. Whenever any article declared contraband under the provisions of this subtitle and required to be
 1942 forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with
 1943 the enforcement of this subtitle, he shall produce the contraband article and any person in whose
 1944 possession it was found. In those cases where no person is found in possession of such articles, the
 1945 return shall so state and a copy of the warrant shall be posted on the door of the buildings or room
 1946 where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

1947 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
 1948 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
 1949 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
 1950 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
 1951 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
 1952 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item
 1953 destroyed, and the materials remaining after such destruction. The report shall include a statement that,
 1954 from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the
 1955 item was set up for use, or had been used in the unlawful cultivation, processing, or manufacture of
 1956 marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

1957 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
 1958 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
 1959 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products
 1960 or any other violation of this subtitle. The destruction shall be in the presence of at least one credible
 1961 witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be
 1962 made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
 1963 seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer
 1964 and witness have no doubt whatever that the marijuana or marijuana products were intended for use in
 1965 the unlawful cultivation, processing, or manufacture of marijuana or marijuana products or were
 1966 intended for use in violation of this subtitle.

1967 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than
 1968 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing
 1969 on such return to determine whether or not the articles seized, or any part thereof, were used or in any
 1970 manner kept, stored, or possessed in violation of this subtitle.

1971 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
 1972 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall
 1973 turn them over to the Board. Any person claiming an interest in any of the articles seized may appear
 1974 at the hearing and file a written claim setting forth particularly the character and extent of his interest.
 1975 The court shall certify the warrant and the articles seized along with any claim filed to the circuit court
 1976 to hear and determine the validity of such claim.

1977 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
 1978 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder
 1979 shall not be a bar to any prosecution under any other provision of this subtitle.

1980 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this
 1981 section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales
 1982 shall be paid into the Literary Fund.

1983 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board
 1984 in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose sale
 1985 would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
 1986 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took
 1987 place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given,
 1988 and the date when given and shall be kept in the offices of the Board.

1989 **§ 4.1-1304. Contraband marijuana or marijuana products.**

1990 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the
 1991 Board authorizing the transportation of marijuana or marijuana products within the Commonwealth
 1992 when other Board regulations applicable to such transportation have been complied with shall not be
 1993 cause for deeming such marijuana or marijuana products contraband.

1994 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

1995 A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification
 1996 as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted
 1997 of violating any Board regulation is guilty of a Class 1 misdemeanor.

1998 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
 1999 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
 2000 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
 2001 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one
 2002 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is
 2003 given, or until he is discharged by the court, provided that he shall not be confined for a period longer
 2004 than six months. If any such bond required by a court is not given during the term of the court by
 2005 which conviction is had, it may be given before any judge or before the clerk of such court.

2006 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or refusing
 2007 to continue the license of any person convicted of a violation of any provision of this subtitle.

2008 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
 2009 assistant has been notified that such a case is pending.

2010 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

2011 No person shall be excused from testifying for the Commonwealth as to any offense committed by
 2012 another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by
 2013 such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
 2014 used against him and he shall not be prosecuted for the offense to which he testifies.

2015 **§ 4.1-1307. Previous convictions.**

2016 In any indictment, information, or warrant charging any person with a violation of any provision of
 2017 this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
 2018 such person has been previously convicted of a violation of this subtitle.

2019 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

2020 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
 2021 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content
 2022 of the container. Nothing shall preclude the introduction of other relevant evidence to establish the
 2023 marijuana content of a container, whether sealed or not.

2024 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

2025 No action to recover the price of any marijuana or marijuana products sold in contravention of this
 2026 subtitle may be maintained.

2027 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

2028 *The Board shall establish a testing program for marijuana and marijuana products. Except as*
 2029 *otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,*
 2030 *prior to selling or distributing marijuana or a marijuana product to a consumer or to another licensee,*
 2031 *to submit a representative sample of the marijuana or marijuana product, not to exceed 10 percent of*
 2032 *the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the*
 2033 *marijuana or marijuana product does not exceed the maximum level of allowable contamination for any*
 2034 *contaminant that is injurious to health and for which testing is required and to ensure correct labeling.*
 2035 *The Board shall adopt regulations (i) establishing a testing program pursuant to this section; (ii)*
 2036 *establishing acceptable testing and research practices, including regulations relating to testing practices,*
 2037 *methods, and standards; quality control analysis; equipment certification and calibration; marijuana*
 2038 *testing facility recordkeeping, documentation, and business practices; disposal of used, unused, and*
 2039 *waste marijuana and marijuana products; and reporting of test results; (iii) identifying the types of*
 2040 *contaminants that are injurious to health for which marijuana and marijuana products shall be tested*
 2041 *under this subtitle; and (iv) establishing the maximum level of allowable contamination for each*
 2042 *contaminant.*

2043 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
 2044 **required destruction; random testing.**

2045 A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to
 2046 another licensee under this subtitle unless a representative sample of the marijuana or marijuana
 2047 product has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle
 2048 and the mandatory testing has demonstrated that (i) the marijuana or marijuana product does not
 2049 exceed the maximum level of allowable contamination for any contaminant that is injurious to health
 2050 and for which testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

2051 B. Mandatory testing of marijuana and marijuana products under this section shall include testing
 2052 for:

- 2053 1. Residual solvents;
- 2054 2. Heavy metals;
- 2055 3. Microbiological contaminants;
- 2056 4. Mycotoxins;
- 2057 5. Pesticide chemical residue; and
- 2058 6. Active ingredient analysis.

2059 Testing shall be performed on the final form in which the marijuana or marijuana product will be
 2060 consumed.

2061 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
 2062 marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana
 2063 testing facility, and the results of the mandatory test.

2064 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested
 2065 marijuana or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or
 2066 contamination for any contaminant that is injurious to health and for which testing is required, the
 2067 marijuana testing facility shall immediately quarantine, document, and properly destroy the marijuana
 2068 or marijuana product and within seven days of completing the test shall notify the Board of the test
 2069 results.

2070 A marijuana testing facility is not required to notify the Board of the results of any test:

2071 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this
 2072 section that demonstrates that the marijuana or marijuana product does not exceed the maximum level
 2073 of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and
 2074 for which testing is required;

2075 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and
 2076 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
 2077 performance of the test that the testing is for research and development purposes only; or

2078 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a
 2079 licensee.

2080 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee
 2081 marijuana or a marijuana product that the licensee has not submitted for testing in accordance with this
 2082 subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

2083 1. The marijuana or marijuana product has previously undergone testing in accordance with this
 2084 subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the
 2085 testing demonstrated that the marijuana or marijuana product does not exceed the maximum level of
 2086 allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for
 2087 which testing is required;

2088 2. The mandatory testing process and the test results for the marijuana or marijuana product are
 2089 documented in accordance with the requirements of this subtitle and all applicable regulations adopted

2090 pursuant to this subtitle;

2091 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
2092 marijuana or marijuana product and transfers of the marijuana or marijuana product to another
2093 licensee or to a consumer can be easily identified; and

2094 4. The marijuana or marijuana product has not undergone any further processing, manufacturing, or
2095 alteration subsequent to the performance of the prior testing under subsection A.

2096 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana
2097 products whose testing samples indicate noncompliance with the health and safety standards required by
2098 this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial
2099 measures can bring the marijuana or marijuana product into compliance with such required health and
2100 safety standards.

2101 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for
2102 the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

2103 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

2104 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer
2105 shall be labeled with the following information:

2106 1. Identification of the type of marijuana or marijuana product;

2107 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and
2108 the retail marijuana store where the marijuana or marijuana product was cultivated, processed, and
2109 offered for sale, as applicable;

2110 3. A statement of the net weight of the marijuana or marijuana product;

2111 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
2112 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other
2113 cannabinoid content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the
2114 product contains tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols
2115 included in the package and the total number of milligrams of all tetrahydrocannabinols contained in
2116 each serving; and (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

2117 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

2118 6. Instructions on usage, including information regarding the amount of marijuana or marijuana
2119 product that constitutes a single serving;

2120 7. A recommended use by date or expiration date;

2121 8. For marijuana and marijuana products, the following statement, prominently displayed in bold
2122 print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
2123 MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD TO AND
2124 USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF CHILDREN.
2125 CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY
2126 BE HABIT-FORMING. MARIJUANA SHOULD NOT BE USED WHILE PREGNANT OR
2127 BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website maintained by the Board
2128 pursuant to § 4.1-604) FOR MORE INFORMATION.";

2129 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana
2130 products;

2131 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
2132 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of
2133 the batch from which the substance originates; and

2134 11. Any other information required by Board regulations.

2135 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
2136 accordance with the provisions of this subtitle shall be packaged in the following manner:

2137 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and
2138 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in
2139 child-resistant, tamper-evident, and resealable packaging that is opaque;

2140 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
2141 component; and

2142 3. Packaging shall comply with any other requirements imposed by Board regulations.

2143 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
2144 accordance with the provisions of this subtitle shall not:

2145 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise be
2146 labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other
2147 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or
2148 distributor of a product intended for human consumption other than the manufacturer, processor,
2149 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii)
2150 otherwise be packaged or labeled in violation of a federal trademark law or regulation;

- 2151 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years of
 2152 age;
- 2153 3. Be labeled or packaged in a manner that obscures identifying information on the label;
- 2154 4. Be labeled or packaged using a false or misleading label;
- 2155 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a
 2156 human, animal, vehicle, or fruit; and
- 2157 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by
 2158 Board regulations.
- 2159 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**
 2160 **marijuana products deemed applicable by the Authority; health and safety regulations.**
- 2161 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
 2162 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a
 2163 consumer:
- 2164 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;
- 2165 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;
- 2166 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
 2167 the product being homogeneous throughout the product or throughout each element of the product that
 2168 has a cannabinoid content;
- 2169 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
 2170 concentrate within the product being homogeneous throughout the product or throughout each element
 2171 of the product that contains marijuana concentrate;
- 2172 5. Shall have a universal symbol stamped or embossed on the packaging of each product;
- 2173 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product and
 2174 shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;
- 2175 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
 2176 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
 2177 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
 2178 than 21 years of age; and
- 2179 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
 2180 the trademarked product is used as a component of or ingredient in the edible marijuana product and
 2181 the edible marijuana product is not advertised or described for sale as containing the trademarked
 2182 product.
- 2183 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations
 2184 that it deems necessary for marijuana and marijuana products to be sold or offered for sale by a
 2185 licensee to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection
 2186 shall establish mandatory health and safety standards applicable to the cultivation of marijuana, the
 2187 processing and manufacture of marijuana products, and the packaging and labeling of marijuana and
 2188 marijuana products sold by a licensee to a consumer. Such regulations shall address:
- 2189 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana
 2190 products by licensees;
- 2191 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing
 2192 and manufacture of marijuana and marijuana products; and
- 2193 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.
- 2194 **§ 4.1-1500. Definitions.**
- 2195 As used in this chapter, unless the context requires a different meaning:
- 2196 "CDFI" means a community development financial institution that provides credit and financial
 2197 services for underserved communities.
- 2198 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.
- 2199 "Funding" means loans and grants made from the Fund.
- 2200 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.
- 2201 "~~Social equity qualified cannabis licensee~~" means a person or business who meets the criteria in
 2202 ~~§ 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of~~
 2203 ~~acquiring, as determined by the Board, a license to operate a marijuana establishment.~~
- 2204 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**
- 2205 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 2206 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be
 2207 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
 2208 donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury
 2209 and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be
 2210 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal
 2211 year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used
 2212 solely for the purposes of providing grants, low-interest loans, and zero-interest loans, and other

2213 *supports and services to social equity qualified cannabis micro business* licensees in order to foster
2214 business ownership and economic growth within communities that have been the most disproportionately
2215 impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be
2216 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
2217 Chief Executive Officer of the Authority.

2218 **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of CDFI.**

2219 A. The Authority shall establish a Program to provide loans, grants, and other supports and services
2220 to qualified social equity cannabis micro business licensees for the purpose of promoting business
2221 ownership and economic growth by communities that have been disproportionately impacted by the
2222 prohibition of cannabis. ~~The~~ For the purposes of issuing loans, the Authority shall may select and work
2223 in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the
2224 Fund. ~~The~~ If the Authority utilizes a CDFI for issuing loans, the CDFI selected by the Authority shall
2225 have (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record
2226 of working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to
2227 manage the Program. ~~Working with the selected CDFI, the~~ The Authority shall establish monitoring and
2228 accountability mechanisms for micro businesses receiving funding and shall report annually the number
2229 of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the
2230 outcomes, including the number and types of jobs created.

2231 B. The Program shall:

2232 1. Identify social equity qualified cannabis micro business licensees who are in need of capital or
2233 other supports and services for the start-up of a cannabis business properly licensed pursuant to the
2234 provisions of this subtitle;

2235 2. Provide loans, grants, and other supports and services for the purposes described in subsection A
2236 and § 4.1-1501;

2237 3. Provide technical assistance; and

2238 4. Bring together community partners to sustain the Program.

2239 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2240 A. A practitioner in the course of his professional practice may issue a written certification for the
2241 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or
2242 disease determined by the practitioner to benefit from such use. The practitioner shall use his
2243 professional judgment to determine the manner and frequency of patient care and evaluation and may
2244 employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient
2245 care through real-time interactive audiovisual technology. No practitioner may issue a written
2246 certification while such practitioner is on the premises of a pharmaceutical processor or cannabis
2247 dispensing facility. A pharmaceutical processor shall not endorse or promote any practitioner who issues
2248 certifications to patients. If a practitioner determines it is consistent with the standard of care to dispense
2249 botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not
2250 specifically included on the initial written certification, authorization for botanical cannabis may be
2251 communicated verbally or in writing to the pharmacist at the time of dispensing. A practitioner who
2252 issues written certifications shall not directly or indirectly accept, solicit, or receive anything of value
2253 from a pharmaceutical processor, cannabis dispensing facility, or any person associated with a
2254 pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia, excluding
2255 information on products or educational materials on the benefits and risks of cannabis products.

2256 B. The written certification shall be on a form provided by the Authority. Such written certification
2257 shall contain the name, address, and telephone number of the practitioner, the name and address of the
2258 patient issued the written certification, the date on which the written certification was made, and the
2259 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant
2260 to subsection A shall expire one year after its issuance unless the practitioner provides in such written
2261 certification an earlier expiration. A written certification shall not be issued to a patient by more than
2262 one practitioner during any given time period.

2263 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
2264 § 18.2-248 ~~or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the
2265 treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written
2266 certification issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's
2267 professional licensing board from sanctioning the practitioner for failing to properly evaluate or treat a
2268 patient's medical condition or otherwise violating the applicable standard of care for evaluating or
2269 treating medical conditions.

2270 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold
2271 sufficient education and training to exercise appropriate professional judgment in the certification of
2272 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent,
2273 guardian, or registered agent that is contingent on or encourages the person's decision to use a particular

2274 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family
 2275 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other
 2276 than those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation
 2277 from a pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of
 2278 patients to whom a practitioner may issue a written certification. The Board may report information to
 2279 the applicable licensing board on unusual patterns of certifications issued by a practitioner.

2280 E. No patient shall be required to physically present the written certification after the initial
 2281 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
 2282 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
 2283 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
 2284 shall electronically transmit on a monthly basis all new written certifications received by the
 2285 pharmaceutical processor or cannabis dispensing facility to the Authority.

2286 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
 2287 patient's parent or legal guardian, may designate an individual to act as his registered agent for the
 2288 purposes of receiving cannabis products pursuant to a valid written certification. Such designated
 2289 individual shall register with the Board unless the individual's name listed on the patient's written
 2290 certification. An individual may, on the basis of medical need and in the discretion of the patient's
 2291 registered practitioner, be listed on the patient's written certification upon the patient's request. The
 2292 Board may set a limit on the number of patients for whom any individual is authorized to act as a
 2293 registered agent.

2294 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility
 2295 to a designated caregiver facility, any employee or contractor of a designated caregiver facility who is
 2296 licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
 2297 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
 2298 subsequent delivery to the patient or resident and may assist in the administration of the cannabis
 2299 product to the patient or resident as necessary.

2300 H. Information obtained under the patient certification or agent registration process shall be
 2301 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information
 2302 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the
 2303 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)
 2304 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a
 2305 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their
 2306 agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs
 2307 obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the
 2308 treatment of a patient, or (v) a patient's registered agent, but only with respect to information related to
 2309 such patient.

2310 **§ 4.1-1604. Criminal liability; exceptions.**

2311 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
 2312 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession
 2313 or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject
 2314 to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
 2315 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
 2316 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
 2317 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally
 2318 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
 2319 regulations.

2320 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
 2321 **operation.**

2322 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above or upon the lands
 2323 or waters of ~~this the~~ *the* Commonwealth, while under the influence of intoxicating liquor or of any narcotic
 2324 *or marijuana* or any habit-forming drugs ~~shall be~~ *is* guilty of a felony and shall be confined in a state
 2325 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury
 2326 trying the case, be confined in jail not exceeding ~~twelve~~ *12* months and fined not exceeding \$500, or
 2327 both such fine and imprisonment.

2328 Any person who ~~shall operate~~ *operates* any aircraft within the airspace over, above, or upon the
 2329 lands or waters of ~~this the~~ *the* Commonwealth carelessly or heedlessly in willful or wanton disregard of the
 2330 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
 2331 any person or property, ~~shall be~~ *is* guilty of a misdemeanor.

2332 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2333 A. *As used in this section, "licensed" and "marijuana establishment" have the same meaning as*
 2334 *provided in § 4.1-600.*

2335 B. *A bank or credit union that provides a financial service to a licensed marijuana establishment,*

2336 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant
2337 to any state law or regulation solely for providing such a financial service or for further investing any
2338 income derived from such a financial service.

2339 C. Nothing in this section shall require a bank or credit union to provide financial services to a
2340 licensed marijuana establishment.

2341 **§ 9.1-1101. Powers and duties of the Department.**

2342 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
2343 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
2344 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police,
2345 sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire
2346 department; the head of any private police department that has been designated as a criminal justice
2347 agency by the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in
2348 any criminal matter. The Department shall provide such services to any federal investigatory agency
2349 within available resources.

2350 B. The Department shall:

2351 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
2352 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of
2353 the Commonwealth as needed;

2354 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
2355 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

2356 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every
2357 six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
2358 breath; and

2359 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC) in
2360 substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and
2361 54.1-3446. The testing methodology shall use post-decarboxylation testing or other equivalent method
2362 and shall consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test
2363 result shall include the total available THC derived from the sum of the THC and THC-A content.

2364 C. The Department shall have the power and duty to:

2365 1. Receive, administer, and expend all funds and other assistance available for carrying out the
2366 purposes of this chapter;

2367 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its
2368 duties and execution of its powers under this chapter including, but not limited to, contracts with the
2369 United States, units of general local government or combinations thereof in Virginia or other states, and
2370 with agencies and departments of the Commonwealth; and

2371 3. Perform such other acts as may be necessary or convenient for the effective performance of its
2372 duties.

2373 D. The Director may appoint and employ a deputy director and such other personnel as are needed
2374 to carry out the duties and responsibilities conferred by this chapter.

2375 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines;
2376 prepayment of local ordinances.**

2377 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
2378 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the
2379 traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be
2380 accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242
2381 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with
2382 a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and
2383 costs without court appearance whether or not he was involved in an accident. The prepayable fine
2384 amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of
2385 posted speed limits, as authorized in § 46.2-878.3.

2386 Such infractions shall not include:

2387 1. Indictable offenses;

2388 2. [Repealed.]

2389 3. Operation of a motor vehicle while under the influence of intoxicating liquor, *marijuana*, or a
2390 narcotic or habit-producing drug, or permitting another person, who is under the influence of
2391 intoxicating liquor, *marijuana*, or a narcotic or habit-producing drug, to operate a motor vehicle owned
2392 by the defendant or in his custody or control;

2393 4. Reckless driving;

2394 5. Leaving the scene of an accident;

2395 6. Driving while under suspension or revocation of driving privileges;

2396 7. Driving without being licensed to drive.

2397 8. [Repealed.]

2398 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
2399 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a
2400 waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense
2401 charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand
2402 trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court,
2403 and that the record of conviction will be sent to the Commissioner of the Department of Motor
2404 Vehicles.

2405 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
2406 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties
2407 to be imposed, designating each infraction specifically. The schedule, which may from time to time be
2408 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
2409 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
2410 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
2411 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
2412 with the provisions of this Code or any rules or regulations promulgated thereunder.

2413 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law
2414 and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B
2415 if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
2416 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
2417 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of
2418 such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the
2419 local circuit court. The schedule, which from time to time may be amended, supplemented or repealed,
2420 shall be uniform in its application throughout the circuit. Such schedule shall not be construed or
2421 interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for
2422 trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall
2423 be paid in accordance with the provisions of this Code or any rules or regulations promulgated
2424 thereunder.

2425 **§ 16.1-260. Intake; petition; investigation.**

2426 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
2427 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2428 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2429 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2430 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
2431 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
2432 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may
2433 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement
2434 of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated
2435 nonattorney employees of a local department of social services may complete, sign, and file with the
2436 clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions
2437 for permanency planning hearings, petitions to establish paternity, motions to establish or modify
2438 support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
2439 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject
2440 of the petition is a child alleged to be in need of services, in need of supervision, or delinquent.
2441 Complaints alleging abuse or neglect of a child shall be referred initially to the local department of
2442 social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.
2443 Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake
2444 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is
2445 receiving child support services or public assistance. No individual who is receiving support services or
2446 public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an
2447 order for support of a child. If the petitioner is seeking or receiving child support services or public
2448 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together
2449 with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to
2450 establish child support, the intake officer shall provide the petitioner information on the possible
2451 availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS)
2452 plan or other government-sponsored coverage through the Department of Medical Assistance Services.

2453 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2454 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2455 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2456 communications and proceedings shall be conducted in the same manner as if the appearance were in
2457 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served
2458 or executed by the officer or person to whom sent, and returned in the same manner, and with the same

2459 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
 2460 original signatures. Any two-way electronic video and audio communication system used for an
 2461 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

2462 When the court service unit of any court receives a complaint alleging facts which may be sufficient
 2463 to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may
 2464 proceed informally to make such adjustment as is practicable without the filing of a petition or may
 2465 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
 2466 establish probable cause for the issuance of the petition.

2467 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
 2468 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
 2469 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
 2470 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile
 2471 committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is
 2472 delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if
 2473 the juvenile had previously been proceeded against informally by intake or had been adjudicated
 2474 delinquent for an offense that would be a felony if committed by an adult.

2475 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and
 2476 the attendance officer has provided documentation to the intake officer that the relevant school division
 2477 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the
 2478 court. The intake officer may defer filing the petition and proceed informally by developing a truancy
 2479 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
 2480 in need of supervision on more than two occasions for failure to comply with compulsory school
 2481 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
 2482 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or
 2483 parents, guardian, or other person standing in loco parentis must agree, in writing, for the development
 2484 of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,
 2485 guardian, or other person standing in loco parentis participate in such programs, cooperate in such
 2486 treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's
 2487 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer
 2488 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
 2489 interagency interdisciplinary team approach. The team may include qualified personnel who are
 2490 reasonably available from the appropriate department of social services, community services board, local
 2491 school division, court service unit, and other appropriate and available public and private agencies and
 2492 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the
 2493 deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then
 2494 the intake officer shall file the petition.

2495 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child
 2496 is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan
 2497 for the juvenile, which may include restitution, the performance of community service, or on a
 2498 complaint alleging that a child has committed a delinquent act other than an act that would be a felony
 2499 or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
 2500 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
 2501 community resources and the circumstances which resulted in the complaint, (B) create an official record
 2502 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise
 2503 the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the
 2504 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
 2505 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241,
 2506 or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11,
 2507 that any subsequent report from the youth justice diversion program alleging that the juvenile failed to
 2508 comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may
 2509 result in the filing of a petition with the court.

2510 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
 2511 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
 2512 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
 2513 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
 2514 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a
 2515 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of
 2516 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,
 2517 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such
 2518 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to
 2519 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer

2520 believes that probable cause does not exist, or that the authorization of a petition will not be in the best
 2521 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other
 2522 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
 2523 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written
 2524 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders
 2525 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant
 2526 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the
 2527 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to
 2528 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2529 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
 2530 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
 2531 in need of supervision have utilized or attempted to utilize treatment and services available in the
 2532 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
 2533 the intake officer determines that the parties have not attempted to utilize available treatment or services
 2534 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
 2535 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,
 2536 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
 2537 officer determines that the parties have made a reasonable effort to utilize available community
 2538 treatment or services may he permit the petition to be filed.

2539 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
 2540 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
 2541 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
 2542 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
 2543 magistrate shall be filed within 10 days of the issuance of the written notification. The written
 2544 notification shall indicate that the intake officer made a finding that no probable cause exists and shall
 2545 provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The
 2546 complainant shall provide the magistrate with a copy of the written notification upon application to the
 2547 magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to
 2548 the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile
 2549 court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is
 2550 closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1
 2551 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this
 2552 subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or
 2553 in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the
 2554 intake officer refuses to authorize a petition relating to an offense that if committed by an adult would
 2555 be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that
 2556 (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the
 2557 complainant shall not have a right to apply to a magistrate for a warrant.

2558 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
 2559 intake officer shall accept and file a petition founded upon the warrant.

2560 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
 2561 which alleges facts of an offense which would be a felony if committed by an adult.

2562 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
 2563 report with the division superintendent of the school division in which any student who is the subject of
 2564 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which
 2565 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
 2566 and is alleged to be within the jurisdiction of the court. The report shall notify the division
 2567 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

- 2568 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
 2569 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;
- 2570 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2571 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 2572 Title 18.2;
- 2573 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2574 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 2575 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2576 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (§ 18.2-247
 2577 4.1-1100 et seq.) of Chapter 7 of Title 18.2 4.1;
- 2578 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2579 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2580 9. Robbery pursuant to § 18.2-58;
- 2581 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

- 2582 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2583 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2584 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2585 14. A threat pursuant to § 18.2-60.
- 2586 The failure to provide information regarding the school in which the student who is the subject of
- 2587 the petition may be enrolled shall not be grounds for refusing to file a petition.
- 2588 The information provided to a division superintendent pursuant to this section may be disclosed only
- 2589 as provided in § 16.1-305.2.
- 2590 H. The filing of a petition shall not be necessary:
- 2591 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
- 2592 other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
- 2593 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.
- 2594 In such cases the court may proceed on a summons issued by the officer investigating the violation in
- 2595 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle
- 2596 accident may, at the scene of the accident or at any other location where a juvenile who is involved in
- 2597 such an accident may be located, proceed on a summons in lieu of filing a petition.
- 2598 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H
- 2599 of § 16.1-241.
- 2600 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission
- 2601 of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or
- 2602 legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent
- 2603 or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the
- 2604 parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be
- 2605 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
- 2606 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
- 2607 blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1
- 2608 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the
- 2609 magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a
- 2610 parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in
- 2611 which the violation is to be tried. When a violation of § 4.1-305 *or* 4.1-1105 is charged by summons,
- 2612 the juvenile shall be entitled to have the charge referred to intake for consideration of informal
- 2613 proceedings pursuant to subsection B, provided that such right is exercised by written notification to the
- 2614 clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 *or*
- 2615 4.1-1105 is served, the officer shall also serve upon the juvenile written notice of the right to have the
- 2616 charge referred to intake on a form approved by the Supreme Court and make return of such service to
- 2617 the court. If the officer fails to make such service or return, the court shall dismiss the summons without
- 2618 prejudice.
- 2619 4. In the case of offenses, *other than marijuana-related offenses*, which, if committed by an adult,
- 2620 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an
- 2621 intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the
- 2622 violation in the same manner as provided by law for adults provided that notice of the summons to
- 2623 appear is mailed by the investigating officer within five days of the issuance of the summons to a parent
- 2624 or legal guardian of the juvenile.
- 2625 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of
- 2626 the jurisdiction granted it in § 16.1-241.
- 2627 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
- 2628 **statement.**
- 2629 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
- 2630 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a
- 2631 violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing
- 2632 curfew violations, the court before final disposition thereof may require an investigation, which (i) shall
- 2633 include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8
- 2634 shall, include a social history of the physical, mental, and social conditions, including an assessment of
- 2635 any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the
- 2636 facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated
- 2637 delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if
- 2638 committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1
- 2639 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or
- 2640 Class 2 misdemeanor if committed by an adult, *or (c) a violation of § 4.1-1105*, the court shall order the
- 2641 juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance
- 2642 abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor

2643 as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court
2644 services unit or by an individual employed by or currently under contract to such agencies and who is
2645 specifically trained to conduct such assessments under the supervision of such counselor.

2646 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
2647 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
2648 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
2649 physical, psychological, or economic injury as a result of the violation of law.

2650 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
2651 **offenses; truancy.**

2652 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the
2653 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
2654 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2;
2655 (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or
2656 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,
2657 ~~18.2-248.1~~, or 18.2-250 *or a violation of § 4.1-1105*; (v) the unlawful purchase, possession, or
2658 consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic
2659 beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation
2660 of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a
2661 handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court
2662 shall order, in addition to any other penalty that it may impose as provided by law for the offense, that
2663 the child be denied a driver's license. In addition to any other penalty authorized by this section, if the
2664 offense involves a violation designated under clause (i) and the child was transporting a person 17 years
2665 of age or younger, the court shall impose the additional fine and order community service as provided in
2666 § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial
2667 of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,
2668 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the
2669 age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a
2670 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of
2671 six months unless the offense is committed by a child under the age of 16 years and three months, in
2672 which case the child's ability to apply for a driver's license shall be delayed for a period of six months
2673 following the date he reaches the age of 16 and three months. If the offense involves a first violation
2674 designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment
2675 of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until
2676 such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation
2677 designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the
2678 delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a
2679 violation designated under clause (vii), the denial of driving privileges shall be for a period of not less
2680 than 30 days, except when the offense involves possession of a concealed handgun or a striker 12,
2681 commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a
2682 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving
2683 privileges shall be for a period of two years unless the offense is committed by a child under the age of
2684 16 years and three months, in which event the child's ability to apply for a driver's license shall be
2685 delayed for a period of two years following the date he reaches the age of 16 and three months.

2686 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
2687 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's
2688 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under
2689 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed
2690 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

2691 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
2692 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the
2693 child's ability to apply for a driver's license for a period of one year following the date he reaches the
2694 age of 16 and three months, as may be appropriate.

2695 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
2696 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year
2697 or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period
2698 of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent
2699 such offense.

2700 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
2701 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be
2702 held in the physical custody of the court during any period of license denial.

2703 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
2704 which shall preserve a record thereof. The report and the record shall include a statement as to whether

2705 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
 2706 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title
 2707 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth
 2708 and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles
 2709 unless the proceeding results in an adjudication of guilt pursuant to subsection F.

2710 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
 2711 driver's license until such time as is stipulated in the court order or until notification by the court of
 2712 withdrawal of the order of denial under subsection E.

2713 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
 2714 subsection A or a violation designated under subsection A2, the child may be referred to a certified
 2715 alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the
 2716 court may set forth. If the finding as to such child involves a violation designated under clause (iii),
 2717 (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or
 2718 educational services upon such terms and conditions as the court may set forth.

2719 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
 2720 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
 2721 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes
 2722 set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted
 2723 license shall be issued for travel to and from home and school when school-provided transportation is
 2724 available and no restricted license shall be issued if the finding as to such child involves a violation
 2725 designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of
 2726 any offense designated in subsection A, a second finding by the court of failure to comply with school
 2727 attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by
 2728 the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted
 2729 permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall
 2730 specifically enumerate the restrictions imposed and contain such information regarding the child as is
 2731 reasonably necessary to identify him. The child may operate a motor vehicle under the court order in
 2732 accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions
 2733 imposed pursuant to this section is guilty of a violation of § 46.2-301.

2734 E. Upon petition made at least 90 days after issuance of the order, the court may review and
 2735 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
 2736 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be
 2737 reviewed and withdrawn until one year after its issuance.

2738 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection
 2739 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's
 2740 license has been restored, the court shall or, in the event the violation resulted in the injury or death of
 2741 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
 2742 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
 2743 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
 2744 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
 2745 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves
 2746 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed
 2747 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or
 2748 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of
 2749 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
 2750 under § 16.1-278.8.

2751 **§ 18.2-46.1. Definitions.**

2752 As used in this article, unless the context requires a different meaning:

2753 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection
 2754 A of § 19.2-297.1.

2755 "Criminal street gang" means any ongoing organization, association, or group of three or more
 2756 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
 2757 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
 2758 symbol; and (iii) whose members individually or collectively have engaged in the commission of,
 2759 attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least
 2760 one of which is an act of violence, provided such acts were not part of a common act or transaction.

2761 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
 2762 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,
 2763 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,
 2764 18.2-287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony
 2765 violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101; or

2766 18.2-248; ~~or 18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101; ~~or 18.2-248; or~~
 2767 ~~18.2-248.1~~; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any
 2768 substantially similar offense under the laws of another state or territory of the United States, the District
 2769 of Columbia, or the United States.

2770 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"
 2771 "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

2772 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used in
 2773 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act
 2774 (§ 54.1-3400 et seq.).

2775 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
 2776 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ *that* is not
 2777 a controlled substance subject to abuse, and:

2778 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging or
 2779 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
 2780 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
 2781 into commerce prior to the initial introduction into commerce of the controlled substance which it is
 2782 alleged to imitate; or

2783 2. Which by express or implied representations purports to act like a controlled substance as a
 2784 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
 2785 use in that particular formulation for any purpose other than for such stimulant or depressant effect,
 2786 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2787 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
 2788 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
 2789 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
 2790 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
 2791 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
 2792 representations, oral or written, concerning the drug, and the methods of distribution of the drug and
 2793 where and how it is sold to the public.

2794 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,
 2795 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture,
 2796 or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.
 2797 "Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or
 2798 cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other
 2799 parts of plants of the genus *Cannabis*; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by
 2800 a person registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined
 2801 in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S.
 2802 Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112;
 2803 (v) an industrial hemp extract, as defined in ~~§ 3.2-5145.1~~; or (vi) any substance containing a
 2804 tetrahydrocannabinol isomer, ester, ether, salt or salts of such isomer, ester, or ether that has been placed
 2805 by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et
 2806 seq.) pursuant to § 54.1-3443.

2807 E. The term "counterfeit controlled substance" means a controlled substance that, without
 2808 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
 2809 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug
 2810 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
 2811 distributor who did in fact so manufacture, process, pack or distribute such drug.

2812 F. E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic
 2813 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such
 2814 salts, isomers, and salts of isomers is possible within the specific chemical designation and any
 2815 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
 2816 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
 2817 geometric isomers.

2818 G. F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
 2819 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
 2820 tetrahydrocannabinolic acid.

2821 H. G. The Department of Forensic Science shall determine the proper methods for detecting the
 2822 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100
 2823 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or
 2824 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
 2825 tetrahydrocannabinol.

2826 § 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to
 2827 manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance

2828 prohibited; penalties.

2829 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any
2830 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute
2831 a controlled substance or an imitation controlled substance.

2832 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
2833 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
2834 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
2835 whatsoever included an exchange of or a demand for money or other property as consideration, and, if
2836 so, whether the amount of such consideration was substantially greater than the reasonable value of such
2837 pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical
2838 composition of such pill, capsule, tablet or substance in any other form whatsoever and, where
2839 applicable, the price at which over-the-counter substances of like chemical composition sell.

2840 C. Except as provided in subsection C1, any person who violates this section with respect to a
2841 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
2842 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
2843 violation, and it is alleged in the warrant, indictment, or information that the person has been before
2844 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
2845 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the
2846 date of the offense alleged in the warrant, indictment, or information, any such person may, in the
2847 discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any
2848 period not less than five years, three years of which shall be a mandatory minimum term of
2849 imprisonment to be served consecutively with any other sentence, and he shall be fined not more than
2850 \$500,000.

2851 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in
2852 the warrant, indictment or information that he has been before convicted of two or more such offenses
2853 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if
2854 committed in the Commonwealth and such prior convictions occurred before the date of the offense
2855 alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a
2856 period of not less than 10 years, 10 years of which shall be a mandatory minimum term of
2857 imprisonment to be served consecutively with any other sentence, and he shall be fined not more than
2858 \$500,000.

2859 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
2860 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1
2861 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term
2862 of imprisonment to be served consecutively with any other sentence:

- 2863** 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2864** 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 2865** a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2866 derivatives of ecgonine or their salts have been removed;
 - 2867** b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2868** c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2869** d. Any compound, mixture, or preparation that contains any quantity of any of the substances
2870 referred to in subdivisions ~~2a through 2e~~ *a, b, and c*;
- 2871** 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~ that
2872 contain cocaine base; or
- 2873** 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
2874 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
2875 or salts of its isomers.

2876 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall
2877 not be applicable if the court finds that:

- 2878** a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2879** b. The person did not use violence or credible threats of violence or possess a firearm or other
2880 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2881** c. The offense did not result in death or serious bodily injury to any person;
- 2882** d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was
2883 not engaged in a continuing criminal enterprise as defined in subsection I; and
- 2884** e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
2885 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2886 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2887 relevant or useful other information to provide or that the Commonwealth already is aware of the
2888 information shall not preclude a determination by the court that the defendant has complied with this

2889 requirement.

2890 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its
2891 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
2892 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
2893 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
2894 second conviction of such a violation, any such person may, in the discretion of the court or jury
2895 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years,
2896 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense
2897 under this subsection and it is alleged in the warrant, indictment, or information that he has been
2898 previously convicted of two or more such offenses or of substantially similar offenses in any other
2899 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
2900 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he
2901 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which
2902 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence
2903 and he shall be fined not more than \$500,000.

2904 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be
2905 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
2906 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
2907 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
2908 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
2909 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
2910 property owned in whole or in part by the person convicted, the court shall order the person to pay to
2911 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual
2912 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated
2913 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of
2914 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human
2915 occupancy according to the guidelines established pursuant to § 32.1-11.7.

2916 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
2917 controlled substance classified in Schedule I or II only as an accommodation to another individual who
2918 is not an inmate in a community correctional facility, local correctional facility or state correctional
2919 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit
2920 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
2921 the controlled substance to use or become addicted to or dependent upon such controlled substance, he
2922 shall be is guilty of a Class 5 felony.

2923 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
2924 prescription of a person authorized under this article to issue the same, which prescription has not been
2925 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
2926 received by the pharmacist within one week of the time of filling the same, or if such violation consists
2927 of a request by such authorized person for the filling by a pharmacist of a prescription which has not
2928 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such
2929 request and delivered to the pharmacist within one week thereof, either such offense shall constitute a
2930 Class 4 misdemeanor.

2931 E1. Any person who violates this section with respect to a controlled substance classified in Schedule
2932 III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall
2933 be is guilty of a Class 5 felony.

2934 E2. Any person who violates this section with respect to a controlled substance classified in Schedule
2935 IV shall be is guilty of a Class 6 felony.

2936 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute
2937 a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in
2938 Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
2939 who is not an inmate in a community correctional facility, local correctional facility or state correctional
2940 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
2941 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
2942 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
2943 guilty of a Class 1 misdemeanor.

2944 F. Any person who violates this section with respect to a controlled substance classified in Schedule
2945 V or Schedule VI or an imitation controlled substance which that imitates a controlled substance
2946 classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

2947 G. Any person who violates this section with respect to an imitation controlled substance which that
2948 imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6
2949 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this
2950 subsection that the defendant believed the imitation controlled substance to actually be a controlled

2951 substance.

2952 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
 2953 sell, give or distribute the following:

2954 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

2955 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

2956 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 2957 derivatives of ecgonine or their salts have been removed;

2958 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2959 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2960 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances
 2961 referred to in subdivisions a ~~through, b, and c~~;

2962 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ contains
 2963 cocaine base; *or*

2964 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
 2965 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or
 2966 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
 2967 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and
 2968 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
 2969 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have
 2970 a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use
 2971 violence or credible threats of violence or possess a firearm or other dangerous weapon in connection
 2972 with the offense or induce another participant in the offense to do so; (iii) the offense did not result in
 2973 death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or
 2974 supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined
 2975 in subsection I ~~of this section~~; and (v) not later than the time of the sentencing hearing, the person has
 2976 truthfully provided to the Commonwealth all information and evidence the person has concerning the
 2977 offense or offenses that were part of the same course of conduct or of a common scheme or plan, but
 2978 the fact that the person has no relevant or useful other information to provide or that the Commonwealth
 2979 already is aware of the information shall not preclude a determination by the court that the defendant
 2980 has complied with this requirement.

2981 H1. Any person who was the principal or one of several principal administrators, organizers or
 2982 leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at
 2983 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
 2984 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or
 2985 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
 2986 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
 2987 distribute the following during any 12-month period of its existence:

2988 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
 2989 detectable amount of heroin;

2990 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
 2991 amount of:

2992 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 2993 derivatives of ecgonine or their salts have been removed;

2994 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2995 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2996 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances
 2997 referred to in subdivisions a ~~through, b, and c~~;

2998 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
 2999 subdivision 2 ~~which that~~ contains cocaine base; *or*

3000 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
 3001 ~~detectable amount of marijuana; or~~

3002 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
 3003 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
 3004 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

3005 A conviction under this section shall be punishable by a fine of not more than \$1 million and
 3006 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

3007 H2. Any person who was the principal or one of several principal administrators, organizers or
 3008 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
 3009 receipts during any 12-month period of its existence from the manufacture, importation, or distribution
 3010 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of
 3011 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,

3012 distribute or possess with the intent to manufacture, sell, give or distribute the following during any
 3013 12-month period of its existence:

3014 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

3015 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

3016 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 3017 derivatives of ecgonine or their salts have been removed;

3018 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

3019 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

3020 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the substances
 3021 referred to in subdivisions a ~~through, b, and c~~;

3022 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains
 3023 cocaine base; *or*

3024 4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; *or*

3025 ~~5.~~ At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
 3026 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
 3027 isomers, or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1
 3028 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
 3029 punishment shall be made to run consecutively with any other sentence. However, the court may impose
 3030 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
 3031 with law-enforcement authorities.

3032 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
 3033 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
 3034 is a part of a continuing series of violations of this section which are undertaken by such person in
 3035 concert with five or more other persons with respect to whom such person occupies a position of
 3036 organizer, a supervisory position, or any other position of management, and from which such person
 3037 obtains substantial income or resources or (iii) such violation is committed, with respect to
 3038 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the
 3039 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

3040 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any
 3041 two or more different substances listed below with the intent to manufacture methamphetamine,
 3042 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
 3043 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
 3044 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
 3045 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
 3046 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or
 3047 2-propanone.

3048 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
 3049 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
 3050 salts of optical isomers.

3051 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

3052 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
 3053 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
 3054 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
 3055 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
 3056 ~~or more pounds of marijuana.~~ A violation of this section shall constitute a separate and distinct felony.
 3057 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
 3058 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
 3059 to exceed ~~\$1,000,000~~ *\$1 million*. A second or subsequent conviction hereunder shall be punishable by a
 3060 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
 3061 other sentence.

3062 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;
 3063 substance abuse screening, assessment treatment and education programs or services; drug tests;
 3064 costs and fees; violations; discharge.**

3065 Whenever any person who has not previously been convicted of any criminal offense under this
 3066 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
 3067 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
 3068 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
 3069 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
 3070 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
 3071 consent of the accused, may defer further proceedings and place him on probation upon terms and
 3072 conditions. If the court defers further proceedings, at that time the court shall determine whether the
 3073 clerk of court has been provided with the fingerprint identification information or fingerprints of the

3074 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the
3075 fingerprints and photograph of the person be taken by a law-enforcement officer.

3076 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
3077 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
3078 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
3079 based upon consideration of the substance abuse assessment. The program or services may be located in
3080 the judicial district in which the charge is brought or in any other judicial district as the court may
3081 provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
3082 Health and Developmental Services, by a similar program which is made available through the
3083 Department of Corrections, (ii) a local community-based probation services agency established pursuant
3084 to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

3085 The court shall require the person entering such program under the provisions of this section to pay
3086 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
3087 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
3088 indigent.

3089 As a condition of probation, the court shall require the accused (a) to successfully complete treatment
3090 or education program or services, (b) to remain drug and alcohol free during the period of probation and
3091 submit to such tests during that period as may be necessary and appropriate to determine if the accused
3092 is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to
3093 comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of
3094 community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
3095 probation agency or personnel of any program or agency approved by the supervising probation agency.

3096 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
3097 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
3098 court has been provided with the fingerprint identification information or fingerprints of such person, the
3099 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
3100 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying
3101 this section in subsequent proceedings.

3102 Notwithstanding any other provision of this section, whenever a court places an individual on
3103 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
3104 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
3105 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

3106 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

3107 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
3108 consumption or use of a controlled substance, alcohol, or any combination of such substances.

3109 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
3110 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
3111 marijuana pursuant to ~~§ 4.1-105.4~~ 4.1-1105, possession of a controlled substance pursuant to
3112 § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia
3113 pursuant to § 54.1-3466 if:

3114 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if
3115 he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
3116 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
3117 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
3118 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
3119 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
3120 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
3121 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
3122 an overdose while another individual seeks or obtains emergency medical attention in accordance with
3123 this subdivision;

3124 2. Such individual remains at the scene of the overdose or at any alternative location to which he or
3125 the person requiring emergency medical attention has been transported until a law-enforcement officer
3126 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the
3127 overdose or at the alternative location, then such individual shall cooperate with law enforcement as
3128 otherwise set forth herein;

3129 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
3130 overdose; and

3131 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
3132 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
3133 assistance.

3134 C. The provisions of this section shall not apply to any person who seeks or obtains emergency

3135 medical attention for himself or another individual, to a person experiencing an overdose when another
 3136 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
 3137 care or assistance to an individual experiencing an overdose while another person seeks or obtains
 3138 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
 3139 search or a lawful arrest.

3140 D. This section does not establish protection from arrest or prosecution for any individual or offense
 3141 other than those listed in subsection B.

3142 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
 3143 determined that the person arrested was immune from prosecution under this section.

3144 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

3145 No school nurse employed by a local school board, person employed by a local health department
 3146 who is assigned to the public school pursuant to an agreement between the local health department and
 3147 the school board, or other person employed by or contracted with a local school board to deliver
 3148 health-related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
 3149 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for
 3150 storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local
 3151 school board, to a student who has been issued a valid written certification for the use of cannabis oil in
 3152 accordance with § 4.1-1601.

3153 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified nursing
 3154 facilities; hospice and hospice facilities; assisted living facilities.**

3155 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
 3156 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
 3157 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
 3158 possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering
 3159 cannabis oil to a patient or resident who has been issued a valid written certification for the use of
 3160 cannabis oil in accordance with § 4.1-1601.

3161 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;
 3162 Department of Agriculture and Consumer Services, Department of Law employees.**

3163 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
 3164 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
 3165 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
 3166 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
 3167 § 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or
 3168 industrial hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with
 3169 regulations promulgated by the Board of ~~Pharmacy~~ and the Board of Agriculture and Consumer
 3170 Services.

3171 B. No employee of the Department of Agriculture and Consumer Services or of the Department of
 3172 Law shall be prosecuted under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-247*, 18.2-248,
 3173 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any
 3174 substance containing tetrahydrocannabinol when possession of industrial hemp or any substance
 3175 containing tetrahydrocannabinol is necessary in the performance of his duties.

3176 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,
 3177 and treatment or education.**

3178 The trial judge or court trying the case of any person found guilty of a criminal violation of any law
 3179 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious
 3180 chemical substances and like substances shall condition any suspended sentence by first requiring such
 3181 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
 3182 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
 3183 shall be conducted by the supervising probation agency or by personnel of any program or agency
 3184 approved by the supervising probation agency. The cost of such testing ordered by the court shall be
 3185 paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court
 3186 shall order the person, as a condition of any suspended sentence, to undergo such treatment or education
 3187 for substance abuse, if available, as the judge or court deems appropriate based upon consideration of
 3188 the substance abuse assessment. The treatment or education shall be provided by a program or agency
 3189 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or
 3190 services available through the Department of Corrections if the court imposes a sentence of one year or
 3191 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available
 3192 through a local or regional jail, a local community-based probation services agency established pursuant
 3193 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3194 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3195 A. Whenever any person who has not previously been convicted of any criminal offense under this
 3196 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,

3197 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
 3198 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
 3199 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious
 3200 chemical substances, and like substances, the judge or court shall require such person to undergo a
 3201 substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse
 3202 testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by
 3203 the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal
 3204 proceedings. The judge or court shall also order the person to undergo such treatment or education for
 3205 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the
 3206 substance abuse assessment. The treatment or education shall be provided by a program or agency
 3207 licensed by the Department of Behavioral Health and Developmental Services or by a similar program
 3208 or services available through the Department of Corrections if the court imposes a sentence of one year
 3209 or more or, if the court imposes a sentence of 12 months or less, by a similar program or services
 3210 available through a local or regional jail, a local community-based probation services agency established
 3211 pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3212 B. The court trying the case of any person alleged to have committed any criminal offense
 3213 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case
 3214 in which the commission of the offense was motivated by or closely related to the use of drugs and
 3215 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
 3216 treatment for the use of drugs may commit, based upon a consideration of the substance abuse
 3217 assessment, such person, upon his conviction, to any facility for the treatment of persons with substance
 3218 abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is
 3219 available in such facility, for a period of time not in excess of the maximum term of imprisonment
 3220 specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in
 3221 excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be,
 3222 in all regards, treated as confinement in a penal institution and the person so committed may be
 3223 convicted of escape if he leaves the place of commitment without authority. A charge of escape may be
 3224 prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the
 3225 person was sentenced to commitment. The court may revoke such commitment at any time and transfer
 3226 the person to an appropriate state or local correctional facility. Upon presentation of a certified statement
 3227 from the director of the treatment facility to the effect that the confined person has successfully
 3228 responded to treatment, the court may release such confined person prior to the termination of the period
 3229 of time for which such person was confined and may suspend the remainder of the term upon such
 3230 conditions as the court may prescribe.

3231 C. The court trying a case in which commission of the criminal offense was related to the
 3232 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
 3233 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
 3234 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
 3235 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
 3236 Developmental Services, if space is available in such facility, for a period of time not in excess of the
 3237 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
 3238 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
 3239 committed may be convicted of escape if he leaves the place of commitment without authority. The
 3240 court may revoke such commitment at any time and transfer the person to an appropriate state or local
 3241 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
 3242 to the effect that the confined person has successfully responded to treatment, the court may release such
 3243 confined person prior to the termination of the period of time for which such person was confined and
 3244 may suspend the remainder of the term upon such conditions as the court may prescribe.

3245 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3246 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) of Title 54.1, it
 3247 ~~shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 3248 distribute any drug classified in Schedule I, II, III, or IV ~~of marijuana~~ to any person under 18 years of
 3249 age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
 3250 distribution of any drug classified in Schedule I, II, III, or IV ~~of marijuana~~. Any person violating this
 3251 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than
 3252 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
 3253 conviction under this section involving a Schedule I or II controlled substance ~~of one ounce or more of~~
 3254 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
 3255 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3256 B. It ~~shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally
 3257 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three

3258 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any
 3259 imitation controlled substance. Any person violating this provision shall be is guilty of a Class 6 felony.

3260 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 3261 **administering controlled substances to minors; penalty.**

3262 It shall be is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
 3263 to a minor any book, pamphlet, periodical, or other printed matter which that he knows advertises for
 3264 sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
 3265 administering, preparing, or growing marijuana or a controlled substance.

3266 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
 3267 **penalty.**

3268 A. It shall be is unlawful for any person to manufacture, sell or distribute or possess with intent to
 3269 sell, give, or distribute any controlled substance, or imitation controlled substance, or marijuana while:

3270 1. Upon the property, including buildings and grounds, of any public or private elementary or
 3271 secondary school, any institution of higher education, or any clearly marked licensed child day center as
 3272 defined in § 22.1-289.02;

3273 2. Upon public property or any property open to public use within 1,000 feet of the property
 3274 described in subdivision 1;

3275 3. On any school bus as defined in § 46.2-100;

3276 4. Upon a designated school bus stop, or upon either public property or any property open to public
 3277 use which is within 1,000 feet of such school bus stop, during the time when school children are
 3278 waiting to be picked up and transported to or are being dropped off from school or a school-sponsored
 3279 activity;

3280 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 3281 recreation or community center facility or any public library; or

3282 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
 3283 property open to public use within 1,000 feet of such an institution facility. It is a violation of the
 3284 provisions of this section if the person possessed the controlled substance, or imitation controlled
 3285 substance, or marijuana on the property described in subdivisions 1 through 6, regardless of where the
 3286 person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, or
 3287 marijuana. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3288 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 3289 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
 3290 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder
 3291 for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control
 3292 Act (§ 54.1-3400 et seq.) or more than one-half ounce of marijuana shall be punished by a mandatory
 3293 minimum term of imprisonment of one year to be served consecutively with any other sentence.
 3294 However, if such person proves that he sold such controlled substance or marijuana only as an
 3295 accommodation to another individual and not with intent to profit thereby from any consideration
 3296 received or expected nor to induce the recipient or intended recipient of the controlled substance or
 3297 marijuana to use or become addicted to or dependent upon such controlled substance or marijuana, he is
 3298 guilty of a Class 1 misdemeanor.

3299 C. If a person commits an act violating the provisions of this section, and the same act also violates
 3300 another provision of law that provides for penalties greater than those provided for by this section, then
 3301 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
 3302 law or the imposition of any penalties provided for thereby.

3303 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3304 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 3305 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the
 3306 knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or
 3307 tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances or
 3308 marijuana, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
 3309 manufacturing, or distributing controlled substances or marijuana, or is used for the illegal possession,
 3310 manufacture, or distribution of controlled substances or marijuana shall be deemed a common nuisance.
 3311 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
 3312 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
 3313 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3314 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3315 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 3316 dwelling house, apartment or building or structure of any kind which that is (i) substantially altered
 3317 from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry
 3318 by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or
 3319 distributing controlled substances or marijuana, and (iii) the object of a valid search warrant, shall be

3320 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
3321 of a Class 5 felony.

3322 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,**
3323 **deceit or forgery.**

3324 A. It shall be is unlawful for any person to obtain or attempt to obtain any drug or procure or
3325 attempt to procure the administration of any controlled substance or marijuana: (i) by fraud, deceit,
3326 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
3327 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
3328 giving of a false address.

3329 B. It shall be is unlawful for any person to furnish false or fraudulent information in or omit any
3330 information from, or willfully make a false statement in, any prescription, order, report, record, or other
3331 document required by Chapter 34 the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1.

3332 C. It shall be is unlawful for any person to use in the course of the manufacture or distribution of a
3333 controlled substance or marijuana a license number which that is fictitious, revoked, suspended, or
3334 issued to another person.

3335 D. It shall be is unlawful for any person, for the purpose of obtaining any controlled substance or
3336 marijuana to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler,
3337 pharmacist, physician, dentist, veterinarian or other authorized person.

3338 E. It shall be is unlawful for any person to make or utter any false or forged prescription or false or
3339 forged written order.

3340 F. It shall be is unlawful for any person to affix any false or forged label to a package or receptacle
3341 containing any controlled substance.

3342 G. This section shall not apply to officers and employees of the United States, of this
3343 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
3344 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
3345 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
3346 investigative, research or analytical purposes and who are acting in the course of their employment;
3347 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and
3348 Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly
3349 authorized representatives file with the Board such information as the Board may deem appropriate.

3350 H. Except as otherwise provided in this subsection, any person who shall violate any provision herein
3351 shall be is guilty of a Class 6 felony.

3352 Whenever any person who has not previously been convicted of any offense under this article or
3353 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
3354 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
3355 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
3356 guilty to the court for violating this section, upon such plea if the facts found by the court would justify
3357 a finding of guilt, the court may place him on probation upon terms and conditions.

3358 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
3359 and/or education program, if available, such as, in the opinion of the court, may be best suited to the
3360 needs of the accused. This program may be located in the judicial circuit in which the charge is brought
3361 or in any other judicial circuit as the court may provide. The services shall be provided by a program
3362 certified or licensed by the Department of Behavioral Health and Developmental Services. The court
3363 shall require the person entering such program under the provisions of this section to pay all or part of
3364 the costs of the program, including the costs of the screening, evaluation, testing and education, based
3365 upon the person's ability to pay unless the person is determined by the court to be indigent.

3366 As a condition of supervised probation, the court shall require the accused to remain drug free during
3367 the period of probation and submit to such tests during that period as may be necessary and appropriate
3368 to determine if the accused is drug free. Such testing may be conducted by the personnel of any
3369 screening, evaluation, and education program to which the person is referred or by the supervising
3370 agency.

3371 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report
3372 to the original arresting law-enforcement agency to submit to fingerprinting.

3373 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
3374 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
3375 shall find the defendant guilty of a Class 1 misdemeanor.

3376 **§ 18.2-265.1. Definition.**

3377 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of
3378 any kind which are either designed for use or which are intended by the person charged with violating
3379 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
3380 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,

3381 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 3382 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3383 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
 3384 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a
 3385 controlled substance can be derived;

3386 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
 3387 processing, or preparing ~~marijuana~~ or controlled substances;

3388 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 3389 or any species of plant ~~which that~~ is a controlled substance;

3390 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 3391 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 3392 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3393 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 3394 controlled substances;

3395 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
 3396 designed for use in cutting controlled substances;

3397 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from,~~
 3398 ~~or in otherwise cleaning or refining, marijuana;~~

3399 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 3400 compounding controlled substances;

3401 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in
 3402 packaging small quantities of ~~marijuana~~ or controlled substances;

3403 10. 9. Containers and other objects intended for use or designed for use in storing or concealing
 3404 ~~marijuana~~ or controlled substances;

3405 11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
 3406 parenterally injecting controlled substances into the human body;

3407 12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 3408 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:

3409 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
 3410 screens, ~~hashish heads,~~ or punctured metal bowls;

3411 b. Water pipes;

3412 c. Carburetion tubes and devices;

3413 d. Smoking and carburetion masks;

3414 e. Roach clips, meaning objects used to hold burning material, such as a ~~marijuana cigarette,~~ that has
 3415 become too small or too short to be held in the hand;

3416 f. Miniature cocaine spoons, and cocaine vials;

3417 g. Chamber pipes;

3418 h. Carburetor pipes;

3419 i. Electric pipes;

3420 j. Air-driven pipes;

3421 k. Chillums;

3422 l. Bongs;

3423 m. Ice pipes or chillers.

3424 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3425 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
 3426 other relevant evidence, the following:

3427 1. Constitutionally admissible statements by the accused concerning the use of the object;

3428 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
 3429 known to the accused;

3430 3. Instructions, oral or written, provided with the object concerning its use;

3431 4. Descriptive materials accompanying the object ~~which that~~ explain or depict its use;

3432 5. National and local advertising within the actual knowledge of the accused concerning its use;

3433 6. The manner in which the object is displayed for sale;

3434 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
 3435 licensed distributor or dealer of tobacco products;

3436 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
 3437 business enterprise;

3438 9. The existence and scope of legitimate uses for the object in the community;

3439 10. Expert testimony concerning its use or the purpose for which it was designed; *and*

3440 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
 3441 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
 3442 in control of the object, as to a direct violation of this article shall not prevent a finding that the object

3443 is intended for use or designed for use as drug paraphernalia.

3444 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3445 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3446 circumstances where one reasonably should know, that it is either designed for use or intended by such
3447 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3448 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3449 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a
3450 Class 1 misdemeanor.

3451 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3452 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a
3453 Class 6 felony.

3454 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall~~
3455 *be is* guilty of a Class 1 misdemeanor.

3456 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3457 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
3458 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife
3459 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
3460 *is* guilty of a Class 4 felony.

3461 **§ 18.2-308.012. Prohibited conduct.**

3462 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
3463 *marijuana*, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
3464 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
3465 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation
3466 of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
3467 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
3468 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
3469 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
3470 apply for a concealed handgun permit for a period of five years.

3471 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
3472 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises
3473 consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1
3474 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun
3475 onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2
3476 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local
3477 law-enforcement officer.

3478 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3479 A. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified
3480 in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with
3481 knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3482 constitutes a separate and distinct felony.

3483 B. It ~~shall be~~ *is* unlawful for any person unlawfully in possession of a controlled substance classified
3484 in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and
3485 intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and
3486 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
3487 mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart
3488 from, and shall be made to run consecutively with, any punishment received for the commission of the
3489 primary felony.

3490 C. It ~~shall be~~ *is* unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
3491 or other firearm or display such weapon in a threatening manner while committing or attempting to
3492 commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell,
3493 or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act
3494 (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6
3495 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be
3496 sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be
3497 separate and apart from, and shall be made to run consecutively with, any punishment received for the
3498 commission of the primary felony.

3499 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
3500 **penalties.**

3501 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
3502 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
3503 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to

3504 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
 3505 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to
 3506 § 3.2-6555, he is guilty of a Class 1 misdemeanor.

3507 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 3508 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any
 3509 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged
 3510 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a
 3511 Class 1 misdemeanor.

3512 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
 3513 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement
 3514 officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of
 3515 justice in any court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3),~~
 3516 ~~(b) or (c) of § 18.2-248.1, or §, 18.2-46.2, or § 18.2-46.3,~~ or relating to the violation of or conspiracy to
 3517 violate any violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3518 D. Any person who knowingly and willfully makes any materially false statement or representation
 3519 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
 3520 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3521 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
 3522 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of
 3523 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a
 3524 law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
 3525 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
 3526 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives
 3527 such communication knows or should know that he is not free to leave.

3528 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3529 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
 3530 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
 3531 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 3532 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which that~~ is a controlled
 3533 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 ~~or~~
 3534 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or
 3535 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,
 3536 ammunitions, or explosives of any nature is guilty of a Class 3 felony.

3537 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3538 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 3539 **authorizing interception of communications.**

3540 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
 3541 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
 3542 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
 3543 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
 3544 communications by the Department of State Police, when such interception may reasonably be expected
 3545 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
 3546 any felony violation of § 18.2-248 ~~or 18.2-248.1,~~ any felony violation of Chapter 29 (§ 59.1-364 et seq.)
 3547 of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.),
 3548 Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any
 3549 felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any
 3550 conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney
 3551 General may apply for authorization for the observation or monitoring of the interception by a police
 3552 department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States.
 3553 Such application shall be made, and such order may be granted, in conformity with the provisions of
 3554 § 19.2-68.

3555 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3556 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction
 3557 shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to
 3558 believe that an offense was committed, is being committed, or will be committed or the person or
 3559 persons whose communications are to be intercepted live, work, subscribe to a wire or electronic
 3560 communication system, maintain an address or a post office box, or are making the communication
 3561 within the territorial jurisdiction of the court.

3562 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
 3563 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
 3564 offense was committed, is being committed, or will be committed or the physical location of the oral
 3565 communication to be intercepted is within the territorial jurisdiction of the court.

3566 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of
3567 a wire or electronic communication, such communication shall be deemed to be intercepted in the
3568 jurisdiction where the order is entered, regardless of the physical location or the method by which the
3569 communication is captured or routed to the monitoring location.

3570 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3571 A. The following officers shall have the powers of arrest as provided in this section:

- 3572 1. Members of the State Police force of the Commonwealth;
- 3573 2. Sheriffs of the various counties and cities, and their deputies;
- 3574 3. Members of any county police force or any duly constituted police force of any city or town of
3575 the Commonwealth;
- 3576 4. The Commissioner, members and employees of the Marine Resources Commission granted the
3577 power of arrest pursuant to § 28.2-900;
- 3578 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3579 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
3580 petty officers authorized under § 29.1-205 to make arrests;
- 3581 7. Conservation officers appointed pursuant to § 10.1-115;
- 3582 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
3583 appointed pursuant to § 46.2-217;
- 3584 9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis*
3585 *Control Authority*;
- 3586 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;
3587 and
- 3588 11. Members of the Division of Capitol Police.

3589 B. Such officers may arrest without a warrant any person who commits any crime in the presence of
3590 the officer and any person whom he has reasonable grounds or probable cause to suspect of having
3591 committed a felony not in his presence.

3592 Such officers may arrest without a warrant any person whom the officer has probable cause to
3593 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of
3594 § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii)
3595 in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the
3596 person arrested to another officer, who may obtain a warrant based upon statements made to him by the
3597 arresting officer.

3598 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
3599 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person
3600 involved in such accident has been transported, or in the apprehension of any person charged with the
3601 theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable
3602 grounds to believe, based upon personal investigation, including information obtained from eyewitnesses,
3603 that a crime has been committed by any person then and there present, apprehend such person without a
3604 warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable
3605 location where a vehicle or person involved in an accident has been moved at the direction of a
3606 law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring
3607 public.

3608 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
3609 location any person whom the officer has probable cause to suspect of driving or operating a motor
3610 vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
3611 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
3612 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
3613 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
3614 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order
3615 issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3616 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in
3617 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,
3618 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
3619 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
3620 reasonably accurate description of such person wanted and the crime alleged.

3621 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not
3622 committed in his presence when the officer receives a radio message from his department or other
3623 law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

3624 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
3625 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
3626 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)

3627 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of
 3628 § 18.2-137, when such property is located on premises used for business or commercial purposes, or a
 3629 similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of
 3630 the person who observed the alleged offense. The arresting officer may issue a summons to any person
 3631 arrested under this section for a misdemeanor violation involving shoplifting.

3632 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3633 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in
 3634 § 19.2-81, persons for crimes involving:

- 3635 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3636 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3637 (c) 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or § 18.2-474.1;
- 3638 and
- 3639 (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare,
 3640 or security of the population of a correctional institution.

3641 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3642 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
 3643 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who
 3644 is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary
 3645 teacher or any other employee in any local school division in the Commonwealth for a felony or a Class
 3646 1 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the
 3647 division safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in
 3648 which such person is employed as soon as practicable but no later than 48 hours after such arrest. The
 3649 contents of the report required pursuant to this subsection shall be utilized by the local school division
 3650 solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3651 B. The report required pursuant to subsection A shall be transmitted to the division safety official (i)
 3652 via certified mail, return receipt requested, to the mailing address identified by the division
 3653 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and
 3654 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any
 3655 certified mail return receipt shall be retained in the case file.

3656 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to
 3657 Virginia Employment Commission records, each arresting official shall request in writing that the
 3658 Virginia Employment Commission provide the name of the current employer of each person arrested for
 3659 an offense set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to
 3660 subsection A.

3661 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement
 3662 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as
 3663 practicable, with the division superintendent of the school division in which the student is enrolled upon
 3664 arresting a person who is known or discovered by the arresting official to be a student age 18 or older
 3665 in any local school division in the Commonwealth for:

- 3666 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
 3667 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;
- 3668 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 3669 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 3670 Title 18.2;
- 3671 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 3672 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 3673 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 3674 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ *Article 4 Chapter 11* (§ 18.2-247
 3675 *4.1-1100* et seq.) of Chapter 7 of Title 18.2 *4.1*;
- 3676 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 3677 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 3678 9. Robbery pursuant to § 18.2-58;
- 3679 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 3680 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
- 3681 12. An act of violence by a mob pursuant to § 18.2-42.1; or
- 3682 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3683 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3684 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1
 3685 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
 3686 officer shall be permitted to testify as to the results of field tests that have been approved by the
 3687 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative
 3688 Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue

3689 in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in §
3690 §§ 4.1-600 and 18.2-247.

3691 B. In any trial for a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer
3692 shall be permitted to testify as to the results of any marijuana field test approved as accurate and
3693 reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3694 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3695 of which is at issue, is marijuana provided the defendant has been given written notice of his right to
3696 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and
3697 shall be provided to the defendant prior to trial.

3698 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or the
3699 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may,
3700 by motion prior to trial before the court in which the charge is pending, request such a chemical
3701 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3702 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its
3703 order the method of custody, transfer, and return of evidence submitted for chemical analysis.

3704 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3705 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3706 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3707 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3708 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of
3709 § 18.2-95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5,
3710 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any
3711 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
3712 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
3713 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause
3714 (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions
3715 of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of
3716 the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
3717 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
3718 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any
3719 danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the
3720 timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final
3721 judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved
3722 (1) information not known to the defendant until more than one year after entry of the final judgment
3723 order, (2) information provided by the defendant within one year of entry of the final judgment order
3724 but that did not become useful to the Commonwealth until more than one year after entry of the final
3725 judgment order, or (3) information the usefulness of which could not reasonably have been anticipated
3726 by the defendant until more than one year after entry of the final judgment order and which was
3727 promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

3728 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
3729 **transactions.**

3730 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
3731 the provisions of *Chapter 11* (§ 4.1-1100 et seq.) of *Title 4.1* or Article 1 (§ 18.2-247 et seq.) of Chapter
3732 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor
3733 vehicles, and all other personal and real property of any kind or character, used in substantial connection
3734 with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to
3735 sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of
3736 marijuana or possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and
3737 (e) of § ~~18.2-248.1~~ § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii)
3738 everything of value furnished, or intended to be furnished, in exchange for a controlled substance in
3739 violation of § 18.2-248 or for marijuana in violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled
3740 substance or marijuana in violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property,
3741 real or personal, traceable to such an exchange, together with any interest or profits derived from the
3742 investment of such money or other property. Under the provisions of clause (i), real property shall not
3743 be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not
3744 less than five years.

3745 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
3746 Chapter 22.1 (§ 19.2-386.1 et seq.).

3747 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3748 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
3749 possession of which is not established or the title to which cannot be ascertained, which have come into

3750 the custody of a peace officer or have been seized in connection with violations of *Chapter 11*
 3751 (*§ 4.1-1100 et seq.*) of *Title 4.1* or *Chapter 7* (*§ 18.2-247 et seq.*) of *Title 18.2*, shall be forfeited and
 3752 disposed of as follows:

3753 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
 3754 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture
 3755 of any such substance or paraphernalia to the Department of Forensic Science, the Department of State
 3756 Police, or to such police department or sheriff's office for research and training purposes and for
 3757 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
 3758 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3759 2. In the event no application is made under subdivision 1, the court shall order the destruction of all
 3760 such substances or paraphernalia, which order shall state the existence and nature of the substance or
 3761 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
 3762 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
 3763 However, the court may order that paraphernalia identified in subdivision 5 of *§ 18.2-265.1* not be
 3764 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need
 3765 for the property and an ability to put the property to a lawful and publicly beneficial use. A return under
 3766 oath, reporting the time, place and manner of destruction shall be made to the court by the officer to
 3767 whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any
 3768 criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter,
 3769 be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is
 3770 given or otherwise comes into possession of any such substances or paraphernalia that are not evidence
 3771 in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may,
 3772 with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;
 3773 provided that a statement under oath, reporting a description of the substances and paraphernalia
 3774 destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer
 3775 by the officer to whom the order is directed.

3776 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 11*
 3777 (*§ 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
 3778 provided by this section until all rights of appeal have been exhausted, except as provided in
 3779 *§ 19.2-386.24*.

3780 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
 3781 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
 3782 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
 3783 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall
 3784 not result in the requesting agency's exceeding the limits allowed by this subsection.

3785 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
 3786 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
 3787 inventory of such substance on a monthly basis, which shall include a description and weight of the
 3788 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for
 3789 research and training purposes. A written report outlining the details of the inventory shall be made to
 3790 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and
 3791 the agency shall detail the substances that were used for research and training pursuant to a court order
 3792 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court
 3793 along with a statement prepared under oath, reporting a description of the substance destroyed, and the
 3794 time, place, and manner of destruction.

3795 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3796 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection
 3797 with any prosecution or investigation under *Chapter 11* (*§ 4.1-1100 et seq.*) of *Title 4.1* or *Chapter 7*
 3798 (*§ 18.2-247 et seq.*) of *Title 18.2*, the appropriate law-enforcement agency may retain 10 pounds of the
 3799 substance randomly selected from the seized substance for representative purposes as evidence and
 3800 destroy the remainder of the seized substance.

3801 Before any destruction is carried out under this section, the law-enforcement agency shall cause the
 3802 material seized to be photographed with identification case numbers or other means of identification and
 3803 shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
 3804 party, if known, or his attorney, at least five days in advance that the photography will take place and
 3805 that they may be present. Prior to any destruction under this section, the law-enforcement agency shall
 3806 also notify the accused or other interested party, if known, and his attorney at least seven days prior to
 3807 the destruction of the time and place the destruction will occur. Any notice required under the
 3808 provisions of this section shall be by first-class mail to the last known address of the person required to
 3809 be notified. In addition to the substance retained for representative purposes as evidence, all photographs
 3810 and records made under this section and properly identified shall be admissible in any court proceeding
 3811 for any purposes for which the seized substance itself would have been admissible.

3812 § 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled
3813 substances, etc.

3814 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to
3815 take into its custody or to maintain custody of substantial quantities of any controlled substances,
3816 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3817 prosecution under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1* or Chapter 7 (§ 18.2-247 et seq.) of Title
3818 18.2. The court in its order may make provision for ensuring integrity of these items until further order
3819 of the court.

3820 § 19.2-389. Dissemination of criminal history record information.

3821 A. Criminal history record information shall be disseminated, whether directly or through an
3822 intermediary, only to:

3823 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3824 purposes of the administration of criminal justice and the screening of an employment application or
3825 review of employment by a criminal justice agency with respect to its own employees or applicants, and
3826 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
3827 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
3828 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
3829 purposes of this subdivision, criminal history record information includes information sent to the Central
3830 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
3831 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
3832 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
3833 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
3834 Commonwealth for the purposes of the administration of criminal justice;

3835 2. Such other individuals and agencies that require criminal history record information to implement
3836 a state or federal statute or executive order of the President of the United States or Governor that
3837 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
3838 conduct, except that information concerning the arrest of an individual may not be disseminated to a
3839 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
3840 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
3841 pending;

3842 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
3843 services required for the administration of criminal justice pursuant to that agreement which shall
3844 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
3845 security and confidentiality of the data;

3846 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
3847 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
3848 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
3849 security of the data;

3850 5. Agencies of state or federal government that are authorized by state or federal statute or executive
3851 order of the President of the United States or Governor to conduct investigations determining
3852 employment suitability or eligibility for security clearances allowing access to classified information;

3853 6. Individuals and agencies where authorized by court order or court rule;

3854 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
3855 owned, operated or controlled by any political subdivision, and any public service corporation that
3856 operates a public transit system owned by a local government for the conduct of investigations of
3857 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
3858 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
3859 conviction record would be compatible with the nature of the employment, permit, or license under
3860 consideration;

3861 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
3862 ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a
3863 position of employment whenever, in the interest of public welfare or safety and as authorized in the
3864 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
3865 with a conviction record would be compatible with the nature of the employment under consideration;

3866 8. Public or private agencies when authorized or required by federal or state law or interstate
3867 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
3868 adult members of that individual's household, with whom the agency is considering placing a child or
3869 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
3870 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
3871 the data shall not be further disseminated to any party other than a federal or state authority or court as
3872 may be required to comply with an express requirement of law;

3873 9. To the extent permitted by federal law or regulation, public service companies as defined in
3874 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
3875 personal contact with the public or when past criminal conduct of an applicant would be incompatible
3876 with the nature of the employment under consideration;

3877 10. The appropriate authority for purposes of granting citizenship and for purposes of international
3878 travel, including, but not limited to, issuing visas and passports;

3879 11. A person requesting a copy of his own criminal history record information as defined in
3880 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
3881 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
3882 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
3883 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
3884 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
3885 Solvers or Crime Line program as defined in § 15.2-1713.1;

3886 12. Administrators and board presidents of and applicants for licensure or registration as a child
3887 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3888 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3889 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
3890 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data
3891 shall not be further disseminated by the facility or agency to any party other than the data subject, the
3892 Commissioner of Social Services' representative or a federal or state authority or court as may be
3893 required to comply with an express requirement of law for such further dissemination; however, nothing
3894 in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative
3895 from issuing written certifications regarding the results of a background check that was conducted before
3896 July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3897 13. The school boards of the Commonwealth for the purpose of screening individuals who are
3898 offered or who accept public school employment and those current school board employees for whom a
3899 report of arrest has been made pursuant to § 19.2-83.1;

3900 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
3901 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
3902 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
3903 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3904 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
3905 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
3906 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
3907 the limitations set out in subsection E;

3908 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
3909 investigations of applicants for compensated employment in licensed assisted living facilities and
3910 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3911 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
3912 in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth
3913 in § 4.1-622;

3914 18. The State Board of Elections and authorized officers and employees thereof and general registrars
3915 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
3916 voter registration, limited to any record of felony convictions;

3917 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
3918 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
3919 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,
3920 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
3921 evaluation, treatment, or discharge planning;

3922 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
3923 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
3924 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3925 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
3926 Department of Education, or the Department of Behavioral Health and Developmental Services for the
3927 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
3928 services;

3929 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
3930 Department for the purpose of determining an individual's fitness for employment pursuant to
3931 departmental instructions;

3932 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
3933 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
3934 records information on behalf of such governing boards or administrators pursuant to a written

3935 agreement with the Department of State Police;

3936 24. Public institutions of higher education and nonprofit private institutions of higher education for
3937 the purpose of screening individuals who are offered or accept employment;

3938 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
3939 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
3940 higher education, for the purpose of assessing or intervening with an individual whose behavior may
3941 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
3942 history record information obtained pursuant to this section or otherwise use any record of an individual
3943 beyond the purpose that such disclosure was made to the threat assessment team;

3944 26. Executive directors of community services boards or the personnel director serving the
3945 community services board for the purpose of determining an individual's fitness for employment,
3946 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3947 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3948 under contract with the community services board to serve in a direct care position on behalf of the
3949 community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3950 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3951 determining an individual's fitness for employment, approval as a sponsored residential service provider,
3952 permission to enter into a shared living arrangement with a person receiving medical assistance services
3953 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
3954 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
3955 37.2-506.1, and 37.2-607;

3956 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
3957 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
3958 name, address, demographics and social security number of the data subject shall be released;

3959 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
3960 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3961 purpose of determining if any applicant who accepts employment in any direct care position or requests
3962 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3963 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3964 under contract with the provider to serve in a direct care position has been convicted of a crime that
3965 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
3966 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
3967 37.2-607;

3968 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
3969 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
3970 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3971 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
3972 Committee for Courts of Justice for the purpose of determining if any person being considered for
3973 election to any judgeship has been convicted of a crime;

3974 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3975 determining an individual's fitness for employment in positions designated as sensitive under Department
3976 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

3977 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3978 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3979 Violent Predators Act (§ 37.2-900 et seq.);

3980 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3981 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3982 companies, for the conduct of investigations of applications for employment or for access to facilities,
3983 by contractors, leased laborers, and other visitors;

3984 35. Any employer of individuals whose employment requires that they enter the homes of others, for
3985 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3986 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3987 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3988 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3989 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3990 than a federal or state authority or court as may be required to comply with an express requirement of
3991 law for such further dissemination, subject to limitations set out in subsection G;

3992 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3993 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3994 or have accepted a position related to the provision of transportation services to enrollees in the
3995 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other

3996 program administered by the Department of Medical Assistance Services;

3997 38. The State Corporation Commission for the purpose of investigating individuals who are current
3998 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
3999 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
4000 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
4001 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
4002 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
4003 information to the applicant or its designee;

4004 39. The Department of Professional and Occupational Regulation for the purpose of investigating
4005 individuals for initial licensure pursuant to § 54.1-2106.1;

4006 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
4007 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
4008 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
4009 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

4010 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

4011 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
4012 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

4013 43. The Department of Education or its agents or designees for the purpose of screening individuals
4014 seeking to enter into a contract with the Department of Education or its agents or designees for the
4015 provision of child care services for which child care subsidy payments may be provided;

4016 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
4017 a juvenile's household when completing a predispositional or postdispositional report required by
4018 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

4019 45. The State Corporation Commission, for the purpose of screening applicants for insurance
4020 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

4021 46. Administrators and board presidents of and applicants for licensure or registration as a child day
4022 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
4023 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
4024 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
4025 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
4026 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
4027 representative, or a federal or state authority or court as may be required to comply with an express
4028 requirement of law for such further dissemination; however, nothing in this subdivision shall be
4029 construed to prohibit the Superintendent of Public Instruction's representative from issuing written
4030 certifications regarding the results of prior background checks in accordance with subsection J of
4031 § 22.1-289.035 or § 22.1-289.039;

4032 47. The National Center for Missing and Exploited Children for the purpose of screening individuals
4033 who are offered or accept employment or will be providing volunteer or contractual services with the
4034 National Center for Missing and Exploited Children; and

4035 48. Other entities as otherwise provided by law.

4036 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
4037 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
4038 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
4039 designated in the order on whom a report has been made under the provisions of this chapter.

4040 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
4041 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
4042 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
4043 copy of conviction data covering the person named in the request to the person making the request;
4044 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
4045 making of such request. A person receiving a copy of his own conviction data may utilize or further
4046 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
4047 subject, the person making the request shall be furnished at his cost a certification to that effect.

4048 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
4049 section shall be limited to the purposes for which it was given and may not be disseminated further,
4050 except as otherwise provided in subdivision A 46.

4051 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
4052 history record information for employment or licensing inquiries except as provided by law.

4053 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
4054 Exchange prior to dissemination of any criminal history record information on offenses required to be
4055 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
4056 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
4057 where time is of the essence and the normal response time of the Exchange would exceed the necessary

4058 time period. A criminal justice agency to whom a request has been made for the dissemination of
 4059 criminal history record information that is required to be reported to the Central Criminal Records
 4060 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
 4061 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
 4062 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

4063 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
 4064 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
 4065 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

4066 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
 4067 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
 4068 for any offense specified in § 63.2-1720.

4069 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
 4070 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
 4071 definition of barrier crime in § 19.2-392.02.

4072 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
 4073 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
 4074 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
 4075 the request to the employer or prospective employer making the request, provided that the person on
 4076 whom the data is being obtained has consented in writing to the making of such request and has
 4077 presented a photo-identification to the employer or prospective employer. In the event no conviction data
 4078 is maintained on the person named in the request, the requesting employer or prospective employer shall
 4079 be furnished at his cost a certification to that effect. The criminal history record search shall be
 4080 conducted on forms provided by the Exchange.

4081 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
 4082 information pursuant to the rules of court for obtaining discovery or for review by the court.

4083 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
 4084 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
 4085 **dissemination of criminal history record information; prohibited practices by employers,**
 4086 **educational institutions, and state and local governments; penalty.**

4087 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
 4088 violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged
 4089 under §§ *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to
 4090 § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection
 4091 or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as
 4092 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of
 4093 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article
 4094 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to
 4095 § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to
 4096 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established
 4097 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173
 4098 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving
 4099 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
 4100 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
 4101 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
 4102 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01;
 4103 (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office
 4104 that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is
 4105 responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or
 4106 highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in
 4107 § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any
 4108 full-time or part-time employee of the State Police or a police department or sheriff's office that is a part
 4109 of or administered by the Commonwealth or any political subdivision thereof for the purpose of
 4110 screening any person for full-time or part-time employment with the State Police or a police department
 4111 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
 4112 thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person
 4113 who applies to be a volunteer with or an employee of an emergency medical services agency as
 4114 provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic
 4115 Science for the purpose of screening any person for full-time or part-time employment with the
 4116 Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee
 4117 who shall be an individual employed as a public safety official of the locality, that has adopted an
 4118 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who

4119 applies to be a volunteer with or an employee of an emergency medical services agency as provided in
4120 § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any
4121 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the
4122 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

4123 B. An employer or educational institution shall not, in any application, interview, or otherwise,
4124 require an applicant for employment or admission to disclose information concerning any arrest, criminal
4125 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
4126 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any
4127 question concerning any arrest, criminal charge, or conviction, include a reference to or information
4128 concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal
4129 charge, or conviction is not open for public inspection pursuant to subsection A.

4130 C. Agencies, officials, and employees of the state and local governments shall not, in any
4131 application, interview, or otherwise, require an applicant for a license, permit, registration, or
4132 governmental service to disclose information concerning any arrest, criminal charge, or conviction
4133 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
4134 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
4135 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,
4136 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is
4137 not open for public inspection pursuant to subsection A. Such an application may not be denied solely
4138 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or
4139 conviction.

4140 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
4141 violation.

4142 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
4143 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
4144 **dissemination of criminal history record information; prohibited practices by employers,**
4145 **educational institutions, and state and local governments; penalty.**

4146 A. Criminal history record information contained in the Central Criminal Records Exchange,
4147 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation
4148 of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under §§
4149 *former* § 18.2-248.1 or *former* § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251,
4150 shall not be open for public inspection or otherwise disclosed, provided that such records may be
4151 disseminated and used for the following purposes: (i) to make the determination as provided in
4152 § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the
4153 fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal
4154 Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the
4155 State Police or a police department or sheriff's office that is a part of or administered by the
4156 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time
4157 or part-time employment with, or to be a volunteer with, the State Police or a police department or
4158 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
4159 thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person
4160 who applies to be a volunteer with or an employee of an emergency medical services agency as
4161 provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic
4162 Science for the purpose of screening any person for full-time or part-time employment with the
4163 Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee
4164 who shall be an individual employed as a public safety official of the locality, that has adopted an
4165 ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who
4166 applies to be a volunteer with or an employee of an emergency medical services agency as provided in
4167 § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any
4168 employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the
4169 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to
4170 any employer or prospective employer or its designee where federal law requires the employer to inquire
4171 about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee
4172 where the position that a person is applying for, or where access to the premises in or upon which any
4173 part of the duties of such position is performed or is to be performed, is subject to any requirement
4174 imposed in the interest of the national security of the United States under any security program in effect
4175 pursuant to or administered under any contract with, or statute or regulation of, the United States or any
4176 Executive Order of the President; (xi) to any person authorized to engage in the collection of court
4177 costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs,
4178 fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article
4179 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of
4180 Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the

4181 Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for
 4182 Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for
 4183 full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
 4184 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
 4185 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
 4186 employer or prospective employer or its designee that is allowed access to such sealed records in
 4187 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted
 4188 pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with
 4189 § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of
 4190 law, or counsel for the accused, in order to comply with any constitutional and statutory duties to
 4191 provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a
 4192 criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use
 4193 in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any
 4194 local department of social services for purposes of performing any statutory duties as required under
 4195 Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as
 4196 authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for
 4197 purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to
 4198 determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or
 4199 convicted of the offense that was sealed.

4200 B. Except as provided in subsection C, agencies, officials, and employees of state and local
 4201 governments, private employers that are not subject to federal laws or regulations in the hiring process,
 4202 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
 4203 employment or admission to disclose information concerning any arrest, criminal charge, or conviction
 4204 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
 4205 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
 4206 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,
 4207 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is
 4208 not open for public inspection pursuant to subsection A.

4209 C. The provisions of subsection B shall not apply if:

4210 1. The person is applying for full-time employment or part-time employment with, or to be a
 4211 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
 4212 by the Commonwealth or any political subdivision thereof;

4213 2. This Code requires the employer to make such an inquiry;

4214 3. Federal law requires the employer to make such an inquiry;

4215 4. The position, or access to the premises in or upon which any part of the duties of such position is
 4216 performed or is to be performed, is subject to any requirement imposed in the interest of the national
 4217 security of the United States under any security program in effect pursuant to or administered under any
 4218 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4219 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to
 4220 § 9.1-134 allow the employer to access such sealed records.

4221 D. Agencies, officials, and employees of the state and local governments shall not, in any
 4222 application, interview, or otherwise, require an applicant for a license, permit, registration, or
 4223 governmental service to disclose information concerning any arrest, criminal charge, or conviction
 4224 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
 4225 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
 4226 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,
 4227 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is
 4228 not open for public inspection pursuant to subsection A. Such an application may not be denied solely
 4229 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or
 4230 conviction.

4231 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
 4232 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
 4233 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
 4234 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any
 4235 question concerning any arrest, criminal charge, or conviction, include a reference to or information
 4236 concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal
 4237 charge, or conviction is not open for public inspection pursuant to subsection A. Such an application
 4238 may not be denied solely because of the applicant's refusal to disclose information concerning any such
 4239 arrest, criminal charge, or conviction.

4240 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined
 4241 in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or

4242 conviction against him when the record relating to such arrest, criminal charge, or conviction is not open
 4243 for public inspection pursuant to subsection A. An applicant need not, in answer to any question
 4244 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
 4245 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
 4246 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
 4247 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
 4248 criminal charge, or conviction.

4249 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
 4250 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
 4251 subsections, such application shall include, or such entity or person shall provide, a notice to the
 4252 applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to
 4253 subsection A does not have to be disclosed in the application. Such notice need not be included on any
 4254 application for one or more of the purposes set forth in subsection C.

4255 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
 4256 conviction that is not open for public inspection pursuant to subsection A or any information from such
 4257 records among law-enforcement officers and attorneys when such disclosures are made by such officers
 4258 or attorneys while engaged in the performance of their duties for purposes solely relating to the
 4259 disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the
 4260 Commonwealth when related to the prosecution of a separate crime.

4261 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
 4262 each violation.

4263 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**
 4264 **employees or volunteers providing care to children or the elderly or disabled.**

4265 A. For purposes of this section:

4266 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
 4267 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
 4268 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,
 4269 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
 4270 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,
 4271 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,
 4272 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1;
 4273 any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,
 4274 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,
 4275 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86,
 4276 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,
 4277 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or
 4278 18.2-314; any felony violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355,
 4279 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of
 4280 § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,
 4281 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any
 4282 felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423,
 4283 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1,
 4284 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any
 4285 substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,
 4286 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of
 4287 another jurisdiction; (iii) any felony violation of § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01,
 4288 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2,
 4289 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of
 4290 another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the
 4291 laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement
 4292 to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including
 4293 any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1
 4294 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's
 4295 requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to
 4296 § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for
 4297 which registration in a sex offender and crimes against minors registry is required under the laws of the
 4298 jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii),
 4299 (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4300 "Barrier crime information" means the following facts concerning a person who has been arrested for,
 4301 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the
 4302 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
 4303 description of the barrier crime or offenses for which the person has been arrested or has been

4304 convicted, the disposition of the charge, and any other information that may be useful in identifying
4305 persons arrested for or convicted of a barrier crime.

4306 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
4307 recreation to children or the elderly or disabled.

4308 "Department" means the Department of State Police.

4309 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or
4310 seeks to volunteer for a qualified entity.

4311 "Identification document" means a document made or issued by or under the authority of the United
4312 States government, a state, a political subdivision of a state, a foreign government, political subdivision
4313 of a foreign government, an international governmental or an international quasi-governmental
4314 organization that, when completed with information concerning a particular individual, is of a type
4315 intended or commonly accepted for the purpose of identification of individuals.

4316 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
4317 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
4318 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
4319 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
4320 operate a qualified entity.

4321 "Qualified entity" means a business or organization that provides care to children or the elderly or
4322 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
4323 pursuant to subdivision A 7 of § 22.1-289.030.

4324 B. A qualified entity may request the Department of State Police to conduct a national criminal
4325 background check on any provider who is employed by such entity. No qualified entity may request a
4326 national criminal background check on a provider until such provider has:

4327 1. Been fingerprinted; and

4328 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and
4329 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
4330 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
4331 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
4332 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a
4333 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background
4334 check report, to challenge the accuracy and completeness of any information contained in any such
4335 report, and to obtain a prompt determination as to the validity of such challenge before a final
4336 determination is made by the Department; and (v) a notice to the provider that prior to the completion
4337 of the background check the qualified entity may choose to deny the provider unsupervised access to
4338 children or the elderly or disabled for whom the qualified entity provides care.

4339 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
4340 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in
4341 subsection B, the Department shall make a determination whether the provider has been convicted of or
4342 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier
4343 crime information, the Department shall access the national criminal history background check system,
4344 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other
4345 methods of identification, and shall access the Central Criminal Records Exchange maintained by the
4346 Department. If the Department receives a background report lacking disposition data, the Department
4347 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain
4348 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry
4349 within 15 business days.

4350 D. Any background check conducted pursuant to this section for a provider employed by a private
4351 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4352 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not
4353 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly
4354 or disabled.

4355 E. Any background check conducted pursuant to this section for a provider employed by a
4356 governmental entity shall be provided to that entity.

4357 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
4358 national criminal background check, the Department and the Federal Bureau of Investigation may each
4359 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
4360 with the fingerprints.

4361 G. The failure to request a criminal background check pursuant to subsection B shall not be
4362 considered negligence per se in any civil action.

4363 § 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of
4364 offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of

4365 former possession of marijuana offenses.

4366 A. If a person was convicted of a violation of any of the following sections, such conviction,
4367 including any records relating to such conviction, shall be ordered to be automatically sealed in the
4368 manner set forth in § 19.2-392.7, subject to the provisions of subsections B and C: § 18.2-96, 18.2-103,
4369 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or § 18.2-415.

4370 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be
4371 ordered to be automatically sealed if seven years have passed since the date of the conviction and the
4372 person convicted of such offense has not been convicted of violating any law of the Commonwealth that
4373 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any
4374 other state, the District of Columbia, or the United States or any territory thereof, excluding traffic
4375 infractions under Title 46.2, during that time period.

4376 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the
4377 conviction, the person was convicted of another offense that is not eligible for automatic sealing under
4378 subsection A.

4379 D. If a person was charged with any criminal offense and such offense concluded with any final
4380 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically
4381 sealed in the manner set forth in § 19.2-392.7.

4382 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
4383 court pursuant to the provisions of § 19.2-392.12.

4384 § 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine
4385 products, and gambling.

4386 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed
4387 by the Board of Education.

4388 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking,
4389 *underage marijuana use*, and drunk driving shall be provided in the public schools. The Virginia
4390 Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide
4391 educational materials to the Department of Education. The Department of Education shall review and
4392 shall distribute such materials as are approved to the public schools.

4393 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall
4394 distribute to each local school division educational materials concerning the health and safety risks of
4395 using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
4396 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
4397 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2,
4398 shall be provided in each public elementary and secondary school in the Commonwealth, consistent with
4399 such educational materials.

4400 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the
4401 public schools as prescribed by the Board.

4402 § 22.1-277.08. Expulsion of students for certain drug offenses.

4403 A. School boards shall expel from school attendance any student whom such school board has
4404 determined, in accordance with the procedures set forth in this article, to have brought a controlled
4405 substance, *or* imitation controlled substance, ~~or marijuana~~ *as those terms are* defined in § 18.2-247 onto
4406 school property or to a school-sponsored activity. A school administrator, pursuant to school board
4407 policy, or a school board may, however, determine, based on the facts of a particular situation, that
4408 special circumstances exist and no disciplinary action or another disciplinary action or another term of
4409 expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his
4410 designee to conduct a preliminary review of such cases to determine whether a disciplinary action other
4411 than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
4412 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
4413 with the procedures set forth in this article. Nothing in this section shall be construed to require a
4414 student's expulsion regardless of the facts of the particular situation.

4415 B. Each school board shall revise its standards of student conduct to incorporate the requirements of
4416 this section no later than three months after the date on which this act becomes effective.

4417 § 23.1-1301. Governing boards; powers.

4418 A. The board of visitors of each baccalaureate public institution of higher education or its designee
4419 may:

- 4420** 1. Make regulations and policies concerning the institution;
- 4421** 2. Manage the funds of the institution and approve an annual budget;
- 4422** 3. Appoint the chief executive officer of the institution;
- 4423** 4. Appoint professors and fix their salaries; and
- 4424** 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4425 B. The governing board of each public institution of higher education or its designee may:

- 4426** 1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative

4427 Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has
 4428 acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms
 4429 and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and
 4430 administered in the same manner as all other gifts and bequests;

4431 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
 4432 purposes on any property owned by the institution;

4433 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
 4434 maintained, or controlled by the institution;

4435 4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers,
 4436 instructors, and other employees;

4437 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to
 4438 the regulations or institution policies required pursuant to § 23.1-1303;

4439 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
 4440 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
 4441 by such regulations or policies;

4442 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
 4443 promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii)
 4444 the awareness and prevention of sexual crimes committed upon students;

4445 8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority
 4446 in accordance with the prohibition against hazing as defined in § 18.2-56;

4447 9. Assign any interest it possesses in intellectual property or in materials in which the institution
 4448 claims an interest, provided such assignment is in accordance with the terms of the institution's
 4449 intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is
 4450 required for transfers of such property (i) developed wholly or predominantly through the use of state
 4451 general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting
 4452 within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1)
 4453 the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage
 4454 intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity
 4455 whose purpose is to benefit the respective institutions. The Governor may attach conditions to these
 4456 transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials
 4457 shall remain the property of the respective institutions and may be used and developed in any manner
 4458 permitted by law;

4459 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
 4460 electronic communication means pursuant to § 2.2-3708.3; and

4461 11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution
 4462 to enforce state statutes and local ordinances with respect to offenses occurring on the property of the
 4463 institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes
 4464 and local ordinances with respect to offenses occurring on the property of the institution.

4465 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4466 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,
 4467 vehicle registration, certificate of title, or other document issued by the Department if such person has
 4468 not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
 4469 entitled thereto, including obtaining any document issued by the Department through the use of
 4470 counterfeit, forged, or altered documents.

4471 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
 4472 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4473 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
 4474 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
 4475 provisions of subsection A.

4476 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is
 4477 charged and convicted of a violation of this section that involved the unlawful obtaining or possession
 4478 of any document issued by the Department for the purpose of engaging in any age-limited activity,
 4479 including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*.
 4480 However, if a person is charged and convicted of any other violation of this section, such offense shall
 4481 constitute a Class 6 felony.

4482 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
 4483 identification card, vehicle registration, certificate of title, or other document issued by the Department
 4484 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
 4485 notice of the cancellation to the address of record maintained by the Department.

4486 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
 4487 **card to obtain alcoholic beverages; penalties.**

4488 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
4489 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the
4490 United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or
4491 government; United States Armed Forces identification card; United States passport or foreign
4492 government visa; Virginia Department of Motor Vehicles special identification card; official
4493 identification issued by any other federal, state or foreign government agency; or official student
4494 identification card of an institution of higher education to obtain alcoholic beverages ~~shall be or~~
4495 *marijuana* is guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the
4496 court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a
4497 period of not less than 30 days nor more than one year.

4498 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4499 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to
4500 temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia
4501 Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such
4502 petition shall be the operator of the establishment has allowed it to become a meeting place for persons
4503 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
4504 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the
4505 chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall,
4506 upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without
4507 bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of
4508 the court that the threat to public safety complained of exists and is likely to continue if such injunction
4509 is not granted. The court hearing on the petition shall be held within 10 days of service upon the
4510 respondent. The respondent shall be served with notice of the time and place of the hearing and copies
4511 of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued
4512 by the court shall be dissolved in the event the court later finds that the threat to public safety that is
4513 the basis of the injunction has been abated by reason of a change of ownership, management, or
4514 business operations at the establishment, or other change in circumstance.

4515 B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*
4516 shall be given notice of any hearing under this section. In the event an injunction is granted, the
4517 Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate
4518 an investigation into the activities at the establishment complained of and conduct an administrative
4519 hearing. After the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control*
4520 *Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage
4521 Control Authority *or the Virginia Cannabis Control Authority*, regardless of disposition, any injunction
4522 issued hereunder shall be null, without further action by the complainant, respondent, or the court.

4523 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4524 This section shall apply to any person who is not a qualified voter because of a felony conviction,
4525 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
4526 meets the conditions and requirements set out in this section.

4527 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
4528 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to
4529 § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii)
4530 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in
4531 which he was convicted of a felony, or the circuit court of the county or city in which he presently
4532 resides, for restoration of his civil right to be eligible to register to vote through the process set out in
4533 this section. On such petition, the court may approve the petition for restoration to the person of his
4534 right if the court is satisfied from the evidence presented that the petitioner has completed, five or more
4535 years previously, service of any sentence and any modification of sentence including probation, parole,
4536 and suspension of sentence; that the petitioner has demonstrated civic responsibility through community
4537 or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic
4538 infractions, for the same period.

4539 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
4540 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
4541 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the
4542 date of the order, subject to the approval or denial of restoration of that right by the Governor. The
4543 Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the
4544 petition for restoration of the right to be eligible to register to vote approved by the court order. The
4545 Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at
4546 the address stated on the court's order, a certificate of restoration of that right or notice that the
4547 Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration
4548 of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary
4549 shall notify the court and the State Board of Elections in each case of the restoration of the right or

4550 denial of restoration by the Governor.

4551 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
4552 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
4553 vote.

4554 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4555 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice
4556 as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to
4557 the public in any manner a readiness to practice or who uses in connection with his name the words or
4558 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word,
4559 letter or designation intending to designate or imply that he is a practitioner of the healing arts or that
4560 he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

4561 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
4562 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
4563 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4564 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4565 are required to sign birth certificates.

4566 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4567 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4568 abbreviation or designation, or other language that identifies the type of practice for which he is
4569 licensed. No person regulated under this chapter shall include in any advertisement a reference to
4570 marijuana, as defined in § ~~18.2-247~~ 54.1-3401, unless such advertisement is for the treatment of
4571 addiction or substance abuse. However, nothing in this subsection shall prevent a person from including
4572 in any advertisement that such person is registered with the Board of Directors of the Virginia Cannabis
4573 Control Authority to issue written certifications for the use of cannabis products, as defined in
4574 § 4.1-1600.

4575 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

4576 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
4577 provided in § 4.1-600.

4578 B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides
4579 accounting services to a licensed marijuana establishment shall not be held liable pursuant to any state
4580 law or regulation solely for providing such accounting services.

4581 C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a
4582 licensed marijuana establishment.

4583 **§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity to**
4584 **Internal Revenue Code.**

4585 A. Any term used in this chapter shall have the same meaning as when used in a comparable context
4586 in the laws of the United States relating to federal income taxes, unless a different meaning is clearly
4587 required.

4588 B. Any reference in this chapter to the laws of the United States relating to federal income taxes
4589 shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other
4590 provisions of the laws of the United States relating to federal income taxes, except for:

4591 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l),
4592 168(m), 1400L, and 1400N of the Internal Revenue Code;

4593 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
4594 Revenue Code;

4595 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of
4596 the Internal Revenue Code;

4597 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income
4598 tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an
4599 "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the
4600 taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless
4601 the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a
4602 three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year
4603 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in
4604 taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of
4605 § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed
4606 for income from the discharge of indebtedness in connection with the reacquisition of an "applicable
4607 debt instrument";

4608 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation
4609 on itemized deductions under § 68(f) of the Internal Revenue Code;

4610 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for

4611 taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income
 4612 threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the
 4613 deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For
 4614 such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction
 4615 allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10
 4616 percent of federal adjusted gross income;

4617 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic
 4618 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

4619 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act,
 4620 P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

4621 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L.
 4622 116-136 (2020), related to the limitation on business interest;

4623 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),
 4624 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of
 4625 the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2),
 4626 and 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax
 4627 attributes, and basis increases for certain loan forgiveness and other business financial assistance; ~~and~~

4628 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would
 4629 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the
 4630 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision
 4631 shall not apply to any amendment to federal income tax law that is either subsequently adopted by the
 4632 General Assembly or a federal tax extender as defined in subdivision b;

4633 12. *For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax*
 4634 *deductions for ordinary and necessary expenditures made in connection with carrying on a trade or*
 4635 *business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the*
 4636 *Internal Revenue Code.*

4637 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die
 4638 of the previous regular session of the General Assembly and the first day of the subsequent regular
 4639 session of the General Assembly if the cumulative projected impact of such amendments would increase
 4640 or decrease general fund revenues by greater than \$75 million in the fiscal year in which the
 4641 amendments were enacted or any of the succeeding four fiscal years. The provisions of this subdivision
 4642 shall not apply to any amendment to federal income tax law that is (i) subsequently adopted by the
 4643 General Assembly, (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date
 4644 on which the cumulative projected impact is met. However, any amendment conformed to pursuant to
 4645 clause (iii) shall be included in the calculation of the \$75 million threshold for purposes of determining
 4646 whether such threshold has been met.

4647 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually
 4648 based on the preceding change in the Chained Consumer Price Index for All Urban Consumers
 4649 (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any
 4650 successor index for the previous year.

4651 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income
 4652 tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the
 4653 threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the
 4654 expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

4655 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance
 4656 and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for
 4657 determining whether the criteria of subdivision a are met.

4658 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year
 4659 on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die
 4660 of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on
 4661 Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of
 4662 Finance shall also provide updates to the same Chairmen on any further amendments to federal income
 4663 tax law occurring between submission of the required report and the first day of the subsequent regular
 4664 session of the General Assembly.

4665 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for
 4666 implementation of the provisions of this section, which procedures or guidelines shall be exempt from
 4667 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4668 **§ 59.1-200. Prohibited practices.**

4669 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
 4670 transaction are hereby declared unlawful:

- 4671 1. Misrepresenting goods or services as those of another;
- 4672 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

4673 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
4674 services, with another;

4675 4. Misrepresenting geographic origin in connection with goods or services;

4676 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
4677 benefits;

4678 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

4679 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
4680 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first
4681 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods
4682 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"
4683 irregulars, imperfects or "not first class";

4684 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
4685 at the price or upon the terms advertised.

4686 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or
4687 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
4688 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph
4689 shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such
4690 goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or
4691 amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement
4692 or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

4693 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts
4694 of price reductions;

4695 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
4696 installed;

4697 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
4698 or bill for merchandise or services previously ordered;

4699 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
4700 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the
4701 supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in
4702 manufacturing the goods or services advertised or offered for sale;

4703 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
4704 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
4705 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth,
4706 or under federal statutes or regulations;

4707 13a. Failing to provide to a consumer, or failing to use or include in any written document or
4708 material provided to or executed by a consumer, in connection with a consumer transaction any
4709 statement, disclosure, notice, or other information however characterized when the supplier is required
4710 by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other
4711 information in connection with the consumer transaction;

4712 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
4713 with a consumer transaction;

4714 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
4715 3.2-6516, or 3.2-6519 is a violation of this chapter;

4716 16. Failing to disclose all conditions, charges, or fees relating to:

4717 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
4718 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
4719 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
4720 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
4721 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
4722 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
4723 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
4724 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
4725 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
4726 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise
4727 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
4728 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
4729 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
4730 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in
4731 § 46.2-100;

4732 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
4733 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the

- 4734 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
 4735 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
 4736 the agreement;
- 4737 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
 4738 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
 4739 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
 4740 receiving overpayments. If the credit balance information is incorporated into statements of account
 4741 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 4742 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
 4743 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
 4744 agreement;
- 4745 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 4746 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
 4747 seq.);
- 4748 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
 4749 seq.);
- 4750 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
 4751 (§ 59.1-207.17 et seq.);
- 4752 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 4753 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
 4754 (§ 59.1-424 et seq.);
- 4755 24. Violating any provision of § 54.1-1505;
- 4756 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
 4757 17.6 (§ 59.1-207.34 et seq.);
- 4758 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 4759 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 4760 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 4761 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
 4762 seq.);
- 4763 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
 4764 seq.);
- 4765 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4766 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4767 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4768 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4769 35. Using the consumer's social security number as the consumer's account number with the supplier,
 4770 if the consumer has requested in writing that the supplier use an alternate number not associated with
 4771 the consumer's social security number;
- 4772 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4773 37. Violating any provision of § 8.01-40.2;
- 4774 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4775 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4776 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4777 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
 4778 (§ 59.1-525 et seq.);
- 4779 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4780 43. Violating any provision of § 59.1-443.2;
- 4781 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4782 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4783 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4784 47. Violating any provision of § 18.2-239;
- 4785 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4786 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
 4787 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
 4788 presumption that a supplier has reason to know a children's product was recalled if notice of the recall
 4789 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
 4790 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
 4791 children's products that are used, secondhand or "seconds";
- 4792 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4793 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4794 52. Violating any provision of § 8.2-317.1;
- 4795 53. Violating subsection A of § 9.1-149.1;

- 4796 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
4797 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
4798 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
4799 which defective drywall has been permanently installed or affixed;
- 4800 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
4801 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
4802 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
4803 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
4804 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4805 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4806 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4807 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 4808 59. Violating any provision of subsection E of § 32.1-126;
- 4809 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed
4810 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4811 61. Violating any provision of § 2.2-2001.5;
- 4812 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4813 63. Violating any provision of § 6.2-312;
- 4814 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4815 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4816 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 4817 67. Knowingly violating any provision of § 8.01-27.5;
- 4818 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to
4819 cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
4820 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial
4821 period to avoid an obligation to pay for the goods or services;
- 4822 69. Selling or offering for sale any substance intended for human consumption, orally or by
4823 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
4824 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
4825 to turn a compound into a different compound by adding or subtracting molecules to or from the
4826 original compound. This subdivision shall not (i) apply to products that are approved for marketing by
4827 the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or
4828 (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 4829 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for
4830 human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
4831 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4832 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
4833 permitted under ~~Chapter 16~~ *Subtitle II* (§ ~~4.1-1600~~ *4.1-600* et seq.) of Title 4.1;
- 4834 71. Selling or offering for sale any substance intended for human consumption, orally or by
4835 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
4836 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
4837 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to
4838 persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of
4839 such substance that constitutes a single serving, and (d) the total percentage and milligrams of
4840 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol
4841 that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an
4842 independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International
4843 Organization of Standardization by a ~~third-party accrediting body~~ *a licensed marijuana testing facility*,
4844 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
4845 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
4846 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in
4847 the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under
4848 ~~Chapter 16~~ (§ ~~4.1-1600~~ et seq.) *Subtitle II* (§ *4.1-600 et seq.*) of Title 4.1;
- 4849 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined
4850 in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
4851 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;
- 4852 73. Selling or offering for sale any substance intended for human consumption, orally or by
4853 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a
4854 container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark
4855 as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of
4856 a manufacturer, processor, packer, or distributor of a product intended for human consumption other

4857 than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
4858 distribute such substance;

4859 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not
4860 include a label stating that the product is not intended for human consumption. This subdivision shall
4861 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4862 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct
4863 permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that
4864 were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of
4865 manufacture if requested;

4866 75. Violating any provision of § 59.1-466.8;

4867 76. Violating subsection F of § 36-96.3:1;

4868 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or
4869 (ii) any kratom product that does not include a label listing all ingredients and with the following
4870 guidance: "This product may be harmful to your health, has not been evaluated by the FDA, and is not
4871 intended to diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means
4872 any part of the leaf of the plant *Mitragyna speciosa* or any extract thereof; and

4873 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to
4874 a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of
4875 any such good or provision of any such continuous service.

4876 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
4877 lease solely by reason of the failure of such contract or lease to comply with any other law of the
4878 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
4879 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable
4880 such contract or lease.

4881 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.

4882 3. That the following provisions shall become effective on May 1, 2025: (i) §§ 2.2-2499.8, as
4883 amended by this act, 3.2-4113, 4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9,
4884 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,
4885 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,
4886 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1,
4887 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-389.3, as it is currently effective and as it shall
4888 become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08, 46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903,
4889 and 59.1-200 of the Code of Virginia, as amended by this act; (ii) §§ 4.1-1102 through 4.1-1105,
4890 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303
4891 through 4.1-1309 of the Code of Virginia, as created by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1,
4892 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by this act.

4893 4. That the Virginia Cannabis Control Authority (the Authority) may, on and after September 1,
4894 2024, begin accepting license applications from all applicants, including pharmaceutical processors
4895 and cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of
4896 Title 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered
4897 with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1
4898 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the
4899 provisions of § 4.1-1000 of the Code of Virginia, as created by this act. Notwithstanding the third
4900 enactment of this act, any applicant issued a license by the Authority may operate in accordance
4901 with the provisions of this act prior to May 1, 2025; however, prior to May 1, 2025, no licensee
4902 may engage in the retail sale of marijuana, marijuana products, immature marijuana plants, or
4903 marijuana seeds. Notwithstanding any other provision of law, on or after September 1, 2024, and
4904 prior to May 1, 2025, no marijuana cultivation facility licensee, marijuana processing facility
4905 licensee, marijuana transporter licensee, retail marijuana store licensee, or marijuana testing
4906 facility licensee or agent or employee thereof shall be subject to arrest or prosecution for a
4907 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 of the Code of Virginia or § 18.2-248,
4908 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the
4909 Code of Virginia, as amended by this act, or § 18.2-248.1 of the Code of Virginia, as repealed by
4910 this act, involving marijuana if such violation is related to acts committed within the scope of the
4911 licensure or employment and in accordance with the provisions of the Cannabis Control Act
4912 (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. From September 1, 2024, to
4913 September 1, 2029, the Authority shall reserve license slots for all pharmaceutical processors and
4914 cannabis dispensing facilities that have been issued a permit by the Board of Directors (the Board)
4915 of the Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia
4916 and issue applicable licenses for any location for which such a permit has been issued, provided
4917 the applicable licensing requirements are met. The Board shall not permit any marijuana
4918 cultivation facility licensee to engage in the outdoor growth of marijuana plants until the Board

4919 has promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code of
4920 Virginia, as amended by this act. Priority for tier IV and tier V marijuana cultivation facility
4921 licenses shall be given to pharmaceutical processors that have been issued a permit by the Board
4922 pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and no less than
4923 five industrial hemp processors or growers that are registered with the Commissioner of
4924 Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the
4925 Code of Virginia and completed such registration prior to January 1, 2021.

4926 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a
4927 seed-to-sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4928 6. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any
4929 limits should be placed on the number of licenses issued to operate a marijuana establishment, (ii)
4930 analyze and identify any necessary adjustments regarding canopy limits for marijuana cultivation
4931 facility licensees, and (iii) report its finding to the General Assembly by November 1, 2025. The
4932 Authority shall continue such analysis and submit updated findings to the General Assembly for
4933 two years after such initial report prior to November 1 during the two subsequent years.

4934 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
4935 promulgate regulations to implement the provisions of this act by December 31, 2024. With the
4936 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative
4937 Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted
4938 pursuant thereto shall apply to the Board's initial adoption of such regulations.

4939 8. That, from July 1, 2024, to July 1, 2025, the Virginia Cannabis Control Authority (the
4940 Authority) shall deposit 75 percent of all funds collected through marijuana establishment annual
4941 license fees into the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the
4942 Code of Virginia, as amended by this act. Such deposits shall occur within 60 days of the
4943 Authority's receipt of such license fees.

4944 9. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this
4945 act, on the question of whether the operation of retail marijuana stores shall be prohibited in a
4946 particular locality shall be held and results certified by December 31, 2024. A referendum on such
4947 question shall not be permitted in a locality after January 1, 2025, unless such referendum follows
4948 a referendum held prior to December 31, 2024, and any subsequent referendum, in which a
4949 majority of the qualified voters voting in such referendum voted "Yes" to prohibit the operation
4950 of retail marijuana stores.

4951 10. That the provisions of the first enactment amending subsection B of § 4.1-614 of the Code of
4952 Virginia, as amended by this act, shall become effective July 1, 2026.

4953 11. That the provisions of this act may result in a net increase in periods of imprisonment or
4954 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
4955 necessary appropriation cannot be determined for periods of imprisonment in state adult
4956 correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I,
4957 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
4958 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
4959 appropriation cannot be determined for periods of commitment to the custody of the Department
4960 of Juvenile Justice.