

HOUSE BILL NO. 2312

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Herring)

A BILL to amend and reenact §§ 1-404, 2.2-221, 2.2-507, 2.2-509.1, 2.2-511, 2.2-1119, 2.2-2696, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 2.2-4345, 3.2-1010, 3.2-3008, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101, 4.1-116, 4.1-121, 4.1-124, as it is currently effective and as it shall become effective, 4.1-225, 5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-102, as it is currently effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2288.3, as it is currently effective and as it shall become effective, 15.2-2288.3:1, as it is currently effective and as it shall become effective, 15.2-2288.3:2, as it is currently effective and as it shall become effective, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-246.6, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016, 18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303, 19.2-303.01, 19.2-386.21 through 19.2-386.25, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.1, 19.2-392.2, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233, 32.1-357, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, 54.1-3442.8, 58.1-3, 58.1-623.2, 58.1-1007, 58.1-1017.4, 58.1-3651, 59.1-148.3, 65.2-107, 65.2-402, and 65.2-402.1 of the Code of Virginia; to amend the Code

27 of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections
 28 numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-
 29 4117.2, by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter
 30 51 of Title 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-
 31 5145.9, by adding in Title 4.1 a chapter numbered 6, containing articles numbered 1 through 10,
 32 consisting of sections numbered 4.1-600 through 4.1-695, by adding in Article 2 of Chapter 1 of
 33 Title 6.2 a section numbered 6.2-107.1, by adding a section numbered 19.2-392.2:1, and by adding
 34 a section numbered 46.2-341.20:7; and to repeal §§ 18.2-248.1, 18.2-250.1, 18.2-251.1, and 19.2-
 35 389.3 of the Code of Virginia, relating to marijuana; legalization of simple possession; penalties.

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

37 **1. That §§ 1-404, 2.2-221, 2.2-507, 2.2-509.1, 2.2-511, 2.2-1119, 2.2-2696, 2.2-2818, 2.2-2905, 2.2-3114,**
 38 **2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 2.2-4345, 3.2-1010, 3.2-3008, 3.2-3906, 3.2-4112, 3.2-4113,**
 39 **3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective,**
 40 **4.1-101, 4.1-116, 4.1-121, 4.1-124, as it is currently effective and as it shall become effective, 4.1-225,**
 41 **5.1-13, 9.1-101, as it is currently effective and as it shall become effective, 9.1-102, as it is currently**
 42 **effective and as it shall become effective, 9.1-400, 9.1-500, 9.1-801, 9.1-1101, 15.2-1627, 15.2-2288.3,**
 43 **as it is currently effective and as it shall become effective, 15.2-2288.3:1, as it is currently effective**
 44 **and as it shall become effective, 15.2-2288.3:2, as it is currently effective and as it shall become**
 45 **effective, 15.2-2820, 16.1-69.40:1, 16.1-69.48:1, as it is currently effective and as it shall become**
 46 **effective, 16.1-228, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-276, 18.2-46.1, 18.2-57, 18.2-**
 47 **246.6, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2,**
 48 **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,**
 49 **18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.03, 18.2-308.09, 18.2-308.012, 18.2-308.016,**
 50 **18.2-308.1:5, 18.2-308.4, 18.2-371.2, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-**
 51 **188.1, 19.2-303, 19.2-303.01, 19.2-386.21 through 19.2-386.25, 19.2-389, as it is currently effective**
 52 **and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become**
 53 **effective, 19.2-392.1, 19.2-392.2, 19.2-392.4, 22.1-206, 22.1-277.08, 23.1-609, 23.1-1301, 24.2-233,**

54 32.1-357, 33.2-613, 46.2-105.2, 46.2-347, 48-17.1, 51.1-212, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-
55 3442.6, 54.1-3442.8, 58.1-3, 58.1-623.2, 58.1-1007, 58.1-1017.4, 58.1-3651, 59.1-148.3, 65.2-107, 65.2-
56 402, and 65.2-402.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia
57 is amended by adding in Chapter 24 of Title 2.2 an article numbered 29, consisting of sections
58 numbered 2.2-2499.1 through 2.2-2499.4, by adding sections numbered 3.2-4117.1 and 3.2-4117.2,
59 by adding in Chapter 41.1 of Title 3.2 a section numbered 3.2-4122, by adding in Chapter 51 of Title
60 3.2 an article numbered 6, consisting of sections numbered 3.2-5145.6 through 3.2-5145.9, by adding
61 in Title 4.1 a chapter numbered 6, containing articles numbered 1 through 10, consisting of sections
62 numbered 4.1-600 through 4.1-695, by adding in Article 2 of Chapter 1 of Title 6.2 a section
63 numbered 6.2-107.1, by adding a section numbered 19.2-392.2:1, and by adding a section numbered
64 46.2-341.20:7 as follows:

65 **§ 1-404. Licensing sale of mixed alcoholic beverages on lands ceded to or owned by United**
66 **States.**

67 The Virginia Alcoholic Beverage and Cannabis Control Authority may license the sale of mixed
68 alcoholic beverages as defined in Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 at places primarily engaged in
69 the sale of meals on lands ceded by the Commonwealth to the United States or owned by the government
70 of the United States or any agency thereof provided that such lands are used as ports of entry or egress to
71 and from the United States, and provided that such lands lie within or partly within the boundaries of any
72 county in this Commonwealth which permits the lawful dispensing of mixed alcoholic beverages. The
73 Board of Directors of the Authority may adopt rules and regulations governing the sale of such spirits,
74 and to fix the fees for such licenses, within the limits fixed by general law.

75 **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

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

81 Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other
82 state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

128 16. Receive and accept from any federal or private agency, foundation, corporation, association,
129 or person grants, donations of money, real property, or personal property for the benefit of the
130 Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county,
131 or other political subdivision thereof, or any other source, aid or contributions of money, property, or other
132 things of value, to be held, used, and applied for the purposes for which such grants and contributions may
133 be made.

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

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

139 19. Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage
140 and Cannabis Control Authority.

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

143 **§ 2.2-507. Legal service in civil matters.**

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

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

- 161 1. Members, agents, or employees of the Virginia Alcoholic Beverage and Cannabis Control
162 Authority;
- 163 2. Agents inspecting or investigators appointed by the State Corporation Commission;
- 164 3. Agents, investigators, or auditors employed by the Department of Taxation;
- 165 4. Members, agents, or employees of the State Board of Behavioral Health and Developmental
166 Services, the Department of Behavioral Health and Developmental Services, the State Board of Health,
167 the State Department of Health, the Department of General Services, the State Board of Social Services,
168 the Department of Social Services, the State Board of Local and Regional Jails, the Department of
169 Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole
170 Board, or the Department of Agriculture and Consumer Services;
- 171 5. Persons employed by the Commonwealth Transportation Board, the Department of
172 Transportation, or the Department of Rail and Public Transportation;
- 173 6. Persons employed by the Commissioner of Motor Vehicles;
- 174 7. Persons appointed by the Commissioner of Marine Resources;
- 175 8. Police officers appointed by the Superintendent of State Police;
- 176 9. Conservation police officers appointed by the Department of Wildlife Resources;
- 177 10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
- 178 11. Staff members or volunteers participating in a court-appointed special advocate program
179 pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
- 180 12. Any emergency medical services agency that is a licensee of the Department of Health in any
181 civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged
182 errors or omissions in the discharge of his court-appointed duties;
- 183 13. Conservation officers of the Department of Conservation and Recreation; or
- 184 14. A person appointed by written order of a circuit court judge to run an existing corporation or
185 company as the judge's representative, when that person is acting in execution of a lawful order of the
186 court and the order specifically refers to this section and appoints such person to serve as an agent of the
187 Commonwealth.

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

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

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

203 **§ 2.2-509.1. Powers of investigators; enforcement of certain tobacco laws.**

204 Investigators with the Office of the Attorney General as designated by the Attorney General shall
205 be authorized to seize cigarettes as defined in § 3.2-4200, which are sold, possessed, distributed,
206 transported, imported, or otherwise held in violation of § 3.2-4207 or 58.1-1037. In addition, such
207 investigators shall be authorized to accompany and participate with special agents of the Virginia
208 Alcoholic Beverage and Cannabis Control Authority or other law-enforcement officials engaging in an
209 enforcement action under § 3.2-4207 or 58.1-1037.

210 **§ 2.2-511. Criminal cases.**

211 A. Unless specifically requested by the Governor to do so, the Attorney General shall have no
212 authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except
213 in cases involving (i) violations of the Alcoholic Beverage and Cannabis Control Act (§ 4.1-100 et seq.),
214 (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation

215 of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau,
216 institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws
217 involving child pornography and sexually explicit visual material involving children, (vii) the practice of
218 law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212
219 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the
220 Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for
221 the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste
222 Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with
223 the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.),
224 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law
225 listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the
226 Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing
227 business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General
228 may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings
229 by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the
230 concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of
231 Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting
232 in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local
233 attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or
234 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi)
235 with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations
236 of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

237 In all other criminal cases in the circuit courts, except where the law provides otherwise, the
238 authority of the Attorney General to appear or participate in the proceedings shall not attach unless and
239 until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by
240 the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the
241 Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the

242 Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of
243 Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a
244 case from the Court of Appeals to the Supreme Court.

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

256 **§ 2.2-1119. Cases in which purchasing through Division not mandatory.**

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

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

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

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

266 4. Materials, equipment and supplies needed by the Commonwealth Transportation Board;
267 however, this exception may include, office stationery and supplies, office equipment, janitorial

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

270 5. Materials, equipment, and supplies needed by the Virginia Alcoholic Beverage and Cannabis
271 Control Authority, including office stationery and supplies, office equipment, and janitorial equipment
272 and supplies; however, coal and fuel oil for heating purposes shall not be included except when authorized
273 in writing by the Division;

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

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

277 8. Financial services, including without limitation, underwriters, financial advisors, investment
278 advisors and banking services.

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

281 Article 29.

282 Cannabis Equity Reinvestment Board.

283 **§ 2.2-2499.1. Cannabis Equity Reinvestment Board; purpose; membership; quorum;**
284 **meetings.**

285 A. The Cannabis Equity Reinvestment Board (the Board) is established as a policy board in the
286 executive branch of state government. The purpose of the Board is to directly address the impact of
287 economic disinvestment, violence, and historical overuse of criminal justice responses to community and
288 individual needs by providing resources to support local design and control of community-based responses
289 to such impacts.

290 B. The Board shall have a total membership of 20 members that shall consist of 13 nonlegislative
291 citizen members and seven ex officio members. Nonlegislative citizen members shall be appointed by the
292 Governor. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth and shall
293 include (i) a person who has been previously incarcerated or convicted of a marijuana-related crime; (ii)
294 an expert in the field of public health with experience in trauma-informed care, if possible; (iii) an expert

295 in education with a focus on access to opportunities for youth in underserved communities; (iv) an expert
296 on Virginia's foster care system; (v) an expert in workforce development; (vi) a representative from one
297 of Virginia's historically black colleges and universities; (vii) a veteran; (viii) an entrepreneur with
298 expertise in emerging industries or access to capital for small businesses; (ix) a representative from the
299 Virginia Indigent Defense Commission; and (x) four community-based providers or community
300 development organization representatives who provide services to address the social determinants of
301 health and promote community investment in communities adversely and disproportionately impacted by
302 marijuana prohibitions, including services such as workforce development, youth mentoring and
303 educational services, job training and placement services, and reentry services.

304 The Secretaries of Education, Health and Human Resources, and Public Safety and Homeland
305 Security, the Director of Diversity, Equity, and Inclusion, the Chief Workforce Development Advisor,
306 and the Attorney General or their designees shall serve ex officio with voting privileges. The Chief
307 Executive Officer of the Virginia Alcoholic Beverage and Cannabis Control Authority or his designee
308 shall serve ex officio without voting privileges.

309 Ex officio members of the Board shall serve terms coincident with their terms of office. After the
310 initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.
311 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.
312 Vacancies shall be filled in the same manner as the original appointments. All members may be
313 reappointed.

314 The Board shall be chaired by the Director of Diversity, Equity, and Inclusion or his designee. The
315 Board shall select a vice-chairman from among its membership. A majority of the members shall constitute
316 a quorum. The Board shall meet at least two times each year and shall meet at the call of the chairman or
317 whenever the majority of the members so request.

318 **§ 2.2-2499.2. Compensation; expenses.**

319 Members shall receive no compensation for the performance of their duties but shall be reimbursed
320 for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§
321 2.2-2813 and 2.2-2825.

322 **§ 2.2-2499.3. Powers and duties of the Board.**

323 The Cannabis Equity Reinvestment Board shall have the following powers and duties:

324 1. Develop and implement scholarship programs and educational and vocational resources for
325 historically marginalized youth, including youth in foster care, who have been adversely impacted by
326 substance use individually, in their families, or in their communities.

327 2. Develop and implement a program to award grants to support workforce development programs,
328 youth mentoring programs, job training and placement services, and reentry services that serve
329 communities historically and disproportionately targeted by drug enforcement.

330 3. Administer the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4.

331 4. Collaborate with the Virginia Alcoholic Beverage and Cannabis Control Board and the Office
332 of Diversity, Equity, and Inclusion as necessary to implement programs and provide recommendations in
333 line with the purpose of this article.

334 5. Submit an annual report to the Governor and the General Assembly for publication as a report
335 document as provided in the procedures of the Division of Legislative Automated Systems for the
336 processing of legislative documents and reports. The chairman shall submit to the Governor and the
337 General Assembly an annual executive summary of the interim activity and work of the Council no later
338 than the first day of each regular session of the General Assembly. The executive summary shall be
339 submitted as a report document as provided in the procedures of the Division of Legislative Automated
340 Systems for the processing of legislative documents and reports and shall be posted on the General
341 Assembly's website.

342 6. Perform such other activities and functions as the Governor and General Assembly may direct.

343 **§ 2.2-2499.4. Cannabis Equity Reinvestment Fund.**

344 There is hereby created in the state treasury a special nonreverting fund to be known as the
345 Cannabis Equity Reinvestment Fund, referred to in this section as "the Fund." The Fund shall be
346 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
347 donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and
348 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.

349 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not
350 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
351 purposes of:

352 1. Making whole again families and communities historically and disproportionately targeted and
353 affected by drug enforcement;

354 2. Providing scholarships for the historically marginalized population of youth, particularly in
355 underserved communities, who have been adversely impacted by substance abuse individually or within
356 their families or communities, including the experience of incarceration of a family member convicted of
357 a marijuana offense;

358 3. Awarding grants to support workforce development, youth mentoring programs, job training
359 and placement efforts, and reentry services that serve persons residing in areas disproportionately
360 impacted by drug enforcement;

361 4. Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-
362 163.01; and

363 5. Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to § 4.1-
364 693.

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

367 **§ 2.2-2696. Substance Abuse Services Council.**

368 A. The Substance Abuse Services Council (the Council) is established as an advisory council,
369 within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council
370 is to advise and make recommendations to the Governor, the General Assembly, and the State Board of
371 Behavioral Health and Developmental Services on broad policies and goals and on the coordination of the
372 Commonwealth's public and private efforts to control substance abuse, as defined in § 37.2-100.

373 B. The Council shall consist of 29 members. Four members of the House of Delegates shall be
374 appointed by the Speaker of the House of Delegates, in accordance with the principles of proportional
375 representation contained in the Rules of the House of Delegates, and two members of the Senate shall be

376 appointed by the Senate Committee on Rules. The Governor shall appoint one member representing the
377 Virginia Sheriffs' Association, one member representing the Virginia Drug Courts Association, one
378 member representing the Substance Abuse Certification Alliance of Virginia, two members representing
379 the Virginia Association of Community Services Boards, and two members representing statewide
380 consumer and advocacy organizations. The Council shall also include the Commissioner of Behavioral
381 Health and Developmental Services; the Commissioner of Health; the Commissioner of the Department
382 of Motor Vehicles; the Superintendent of Public Instruction; the Directors of the Departments of Juvenile
383 Justice, Corrections, Criminal Justice Services, Medical Assistance Services, and Social Services; the
384 Chief Executive Officer of the Virginia Alcoholic Beverage and Cannabis Control Authority; the
385 Executive Director of the Virginia Foundation for Healthy Youth or his designee; the Executive Director
386 of the Commission on the Virginia Alcohol Safety Action Program or his designee; and the chairs or their
387 designees of the Virginia Association of Drug and Alcohol Programs, the Virginia Association of
388 Addiction Professionals, and the Substance Abuse Council and the Prevention Task Force of the Virginia
389 Association of Community Services Boards.

390 C. Appointments of legislative members and heads of agencies or representatives of organizations
391 shall be for terms consistent with their terms of office. Beginning July 1, 2011, the Governor's
392 appointments of the seven nonlegislative citizen members shall be staggered as follows: two members for
393 a term of one year, three members for a term of two years, and two members for a term of three years.
394 Thereafter, appointments of nonlegislative members shall be for terms of three years, except an
395 appointment to fill a vacancy, which shall be for the unexpired term. The Governor shall appoint a
396 chairman from among the members for a two-year term. No member shall be eligible to serve more than
397 two consecutive terms as chairman.

398 No person shall be eligible to serve more than two successive terms, provided that a person
399 appointed to fill a vacancy may serve two full successive terms.

400 D. The Council shall meet at least four times annually and more often if deemed necessary or
401 advisable by the chairman.

402 E. Members of the Council shall receive no compensation for their services but shall be reimbursed
403 for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§
404 2.2-2813 and 2.2-2825. Funding for the cost of expenses shall be provided by the Department of
405 Behavioral Health and Developmental Services.

406 F. The duties of the Council shall be:

407 1. To recommend policies and goals to the Governor, the General Assembly, and the State Board
408 of Behavioral Health and Developmental Services;

409 2. To coordinate agency programs and activities, to prevent duplication of functions, and to
410 combine all agency plans into a comprehensive interagency state plan for substance abuse services;

411 3. To review and comment on annual state agency budget requests regarding substance abuse and
412 on all applications for state or federal funds or services to be used in substance abuse programs;

413 4. To define responsibilities among state agencies for various programs for persons with substance
414 abuse and to encourage cooperation among agencies; and

415 5. To make investigations, issue annual reports to the Governor and the General Assembly, and
416 make recommendations relevant to substance abuse upon the request of the Governor.

417 G. Staff assistance shall be provided to the Council by the Office of Substance Abuse Services of
418 the Department of Behavioral Health and Developmental Services.

419 **§ 2.2-2818. Health and related insurance for state employees.**

420 A. The Department of Human Resource Management shall establish a plan, subject to the approval
421 of the Governor, for providing health insurance coverage, including chiropractic treatment,
422 hospitalization, medical, surgical and major medical coverage, for state employees and retired state
423 employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such
424 plan. The same plan shall be offered to all part-time state employees, but the total cost shall be paid by
425 such part-time employees. The Department of Human Resource Management shall administer this section.
426 The plan chosen shall provide means whereby coverage for the families or dependents of state employees
427 may be purchased. Except for part-time employees, the Commonwealth may pay all or a portion of the
428 cost thereof, and for such portion as the Commonwealth does not pay, the employee, including a part-time

429 employee, may purchase the coverage by paying the additional cost over the cost of coverage for an
430 employee.

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

432 B. The plan shall:

433 1. Include coverage for low-dose screening mammograms for determining the presence of occult
434 breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through
435 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually
436 to persons age 50 and over and may be limited to a benefit of \$50 per mammogram subject to such dollar
437 limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally.

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

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

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

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

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

454 2. Include coverage for postpartum services providing inpatient care and a home visit or visits that
455 shall be in accordance with the medical criteria, outlined in the most current version of or an official

456 update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the
457 American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic
458 Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be
459 provided incorporating any changes in such Guidelines or Standards within six months of the publication
460 of such Guidelines or Standards or any official amendment thereto.

461 3. Include an appeals process for resolution of complaints that shall provide reasonable procedures
462 for the resolution of such complaints and shall be published and disseminated to all covered state
463 employees. The appeals process shall be compliant with federal rules and regulations governing
464 nonfederal, self-insured governmental health plans. The appeals process shall include a separate expedited
465 emergency appeals procedure that shall provide resolution within time frames established by federal law.
466 For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with
467 one or more independent review organizations to review such decisions. Independent review organizations
468 are entities that conduct independent external review of adverse benefit determinations. The Department
469 shall adopt regulations to assure that the independent review organization conducting the reviews has
470 adequate standards, credentials and experience for such review. The independent review organization shall
471 examine the final denial of claims to determine whether the decision is objective, clinically valid, and
472 compatible with established principles of health care. The decision of the independent review organization
473 shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for
474 those findings, and (iii) be final and binding if consistent with law and policy.

475 Prior to assigning an appeal to an independent review organization, the Department shall verify
476 that the independent review organization conducting the review of a denial of claims has no relationship
477 or association with (i) the covered person or the covered person's authorized representative; (ii) the treating
478 health care provider, or any of its employees or affiliates; (iii) the medical care facility at which the covered
479 service would be provided, or any of its employees or affiliates; or (iv) the development or manufacture
480 of the drug, device, procedure or other therapy that is the subject of the final denial of a claim. The
481 independent review organization shall not be a subsidiary of, nor owned or controlled by, a health plan, a
482 trade association of health plans, or a professional association of health care providers. There shall be no

483 liability on the part of and no cause of action shall arise against any officer or employee of an independent
484 review organization for any actions taken or not taken or statements made by such officer or employee in
485 good faith in the performance of his powers and duties.

486 4. Include coverage for early intervention services. For purposes of this section, "early intervention
487 services" means medically necessary speech and language therapy, occupational therapy, physical therapy
488 and assistive technology services and devices for dependents from birth to age three who are certified by
489 the Department of Behavioral Health and Developmental Services as eligible for services under Part H of
490 the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early
491 intervention services for the population certified by the Department of Behavioral Health and
492 Developmental Services shall mean those services designed to help an individual attain or retain the
493 capability to function age-appropriately within his environment, and shall include services that enhance
494 functional ability without effecting a cure.

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

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

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

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

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

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

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

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

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

533 13. Permit any individual covered under the plan direct access to the health care services of a
534 participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered
535 individual. The plan shall have a procedure by which an individual who has an ongoing special condition
536 may, after consultation with the primary care physician, receive a referral to a specialist for such condition

537 who shall be responsible for and capable of providing and coordinating the individual's primary and
538 specialty care related to the initial specialty care referral. If such an individual's care would most
539 appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the
540 purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening,
541 degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time.
542 Within the treatment period authorized by the referral, such specialist shall be permitted to treat the
543 individual without a further referral from the individual's primary care provider and may authorize such
544 referrals, procedures, tests, and other medical services related to the initial referral as the individual's
545 primary care provider would otherwise be permitted to provide or authorize. The plan shall have a
546 procedure by which an individual who has an ongoing special condition that requires ongoing care from
547 a specialist may receive a standing referral to such specialist for the treatment of the special condition. If
548 the primary care provider, in consultation with the plan and the specialist, if any, determines that such a
549 standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing
550 contained herein shall prohibit the plan from requiring a participating specialist to provide written
551 notification to the covered individual's primary care physician of any visit to such specialist. Such
552 notification may include a description of the health care services rendered at the time of the visit.

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

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

562 Notwithstanding the provisions of this subdivision, any provider shall be permitted by the plan to
563 continue rendering health services to any covered employee who has entered the second trimester of

564 pregnancy at the time of the provider's termination of participation, except when a provider is terminated
565 for cause. Such treatment shall, at the covered employee's option, continue through the provision of
566 postpartum care directly related to the delivery.

567 Notwithstanding the provisions of this subdivision, any provider shall be permitted to continue
568 rendering health services to any covered employee who is determined to be terminally ill (as defined under
569 § 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, except
570 when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue
571 for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

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

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

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

581 For purposes of this subdivision:

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

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

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

591 "NCI" means the National Cancer Institute.

592 "NIH" means the National Institutes of Health.

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

594 "Patient cost" means the cost of a medically necessary health care service that is incurred as a
595 result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not
596 include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the
597 treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research
598 associated with the clinical trial, or (iii) the cost of the investigational drug or device.

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

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

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

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

613 Coverage under this subdivision shall apply only if:

- 614 (1) There is no clearly superior, noninvestigational treatment alternative;
- 615 (2) The available clinical or preclinical data provide a reasonable expectation that the treatment
616 will be at least as effective as the noninvestigational alternative; and

617 (3) The patient and the physician or health care provider who provides services to the patient under
618 the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to
619 procedures established by the plan.

620 16. Include coverage providing a minimum stay in the hospital of not less than 23 hours for a
621 covered employee following a laparoscopy-assisted vaginal hysterectomy and 48 hours for a covered
622 employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized
623 guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours
624 referenced when the attending physician, in consultation with the covered employee, determines that a
625 shorter hospital stay is appropriate.

626 17. Include coverage for biologically based mental illness.

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

633 Coverage for biologically based mental illnesses shall neither be different nor separate from
634 coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year
635 or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits,
636 copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and
637 coinsurance factors.

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

643 18. Offer and make available coverage for the treatment of morbid obesity through gastric bypass
644 surgery or such other methods as may be recognized by the National Institutes of Health as effective for
645 the long-term reversal of morbid obesity. Such coverage shall have durational limits, dollar limits,
646 deductibles, copayments and coinsurance factors that are no less favorable than for physical illness
647 generally. Access to surgery for morbid obesity shall not be restricted based upon dietary or any other
648 criteria not approved by the National Institutes of Health. For purposes of this subdivision, "morbid
649 obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height,
650 and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal
651 to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such
652 as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per
653 meter squared without such comorbidity. As used herein, "BMI" equals weight in kilograms divided by
654 height in meters squared.

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

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

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

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

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

689 D. For the purposes of this section:

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

696 "Standard reference compendia" means:

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

700 "State employee" means state employee as defined in § 51.1-124.3; employee as defined in § 51.1-
701 201; the Governor, Lieutenant Governor and Attorney General; judge as defined in § 51.1-301 and judges,
702 clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic
703 relations, and district courts of the Commonwealth; interns and residents employed by the School of
704 Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Virginia
705 Commonwealth University Health System Authority as provided in § 23.1-2415; and employees of the
706 Virginia Alcoholic Beverage and Cannabis Control Authority as provided in § 4.1-101.05.

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

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

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

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

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

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

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

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

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

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

747 K. No contract between a provider and any plan established in accordance with this section shall
748 include provisions that require a health care provider or health care provider group to deny covered

749 services that such provider or group knows to be medically necessary and appropriate that are provided
750 with respect to a covered employee with similar medical conditions.

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

753 The Ombudsman shall:

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

756 2. Answer inquiries from covered employees by telephone and electronic mail.

757 3. Provide to covered employees information concerning the state health plans.

758 4. Develop information on the types of health plans available, including benefits and complaint
759 procedures and appeals.

760 5. Make available, either separately or through an existing Internet web site utilized by the
761 Department of Human Resource Management, information as set forth in subdivision 4 and such
762 additional information as he deems appropriate.

763 6. Maintain data on inquiries received, the types of assistance requested, any actions taken and the
764 disposition of each such matter.

765 7. Upon request, assist covered employees in using the procedures and processes available to them
766 from their health plan, including all appeal procedures. Such assistance may require the review of health
767 care records of a covered employee, which shall be done only in accordance with the federal Health
768 Insurance Portability and Accountability Act privacy rules. The confidentiality of any such medical
769 records shall be maintained in accordance with the confidentiality and disclosure laws of the
770 Commonwealth.

771 8. Ensure that covered employees have access to the services provided by the Ombudsman and
772 that the covered employees receive timely responses from the Ombudsman or his representatives to the
773 inquiries.

774 9. Report annually on his activities to the standing committees of the General Assembly having
775 jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of
776 each year.

777 M. The plan established in accordance with this section shall not refuse to accept or make
778 reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered
779 employee.

780 For purposes of this subsection, "assignment of benefits" means the transfer of dental care
781 coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be
782 effective until the covered employee notifies the plan in writing of the assignment.

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

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

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

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

807 R. The Department of Human Resource Management shall report annually, by November 30 of
808 each year, on cost and utilization information for each of the mandated benefits set forth in subsection B,
809 including any mandated benefit made applicable, pursuant to subdivision B 22, to any plan established
810 pursuant to this section. The report shall be in the same detail and form as required of reports submitted
811 pursuant to § 38.2-3419.1, with such additional information as is required to determine the financial
812 impact, including the costs and benefits, of the particular mandated benefit.

813 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

814 The provisions of this chapter shall not apply to:

- 815 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 816 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 817 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
818 house thereof is required or not;
- 819 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 820 5. Members of boards and commissions however selected;
- 821 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
822 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
823 notaries public;
- 824 7. Officers and employees of the General Assembly and persons employed to conduct temporary
825 or special inquiries, investigations, or examinations on its behalf;
- 826 8. The presidents and teaching and research staffs of state educational institutions;

- 827 9. Commissioned officers and enlisted personnel of the National Guard;
- 828 10. Student employees at institutions of higher education and patient or inmate help in other state
829 institutions;
- 830 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
831 employees compensated on an hourly or daily basis;
- 832 12. County, city, town, and district officers, deputies, assistants, and employees;
- 833 13. The employees of the Virginia Workers' Compensation Commission;
- 834 14. The officers and employees of the Virginia Retirement System;
- 835 15. Employees whose positions are identified by the State Council of Higher Education and the
836 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown
837 Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New
838 College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and
839 approved by the Director of the Department of Human Resource Management as requiring specialized
840 and professional training;
- 841 16. Employees of the Virginia Lottery;
- 842 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
843 and service industries who have a human resources classification of industry worker;
- 844 18. Employees of the Virginia Commonwealth University Health System Authority;
- 845 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans
846 for such employees shall be subject to the review and approval of the Board of Visitors of the University
847 of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
848 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
849 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 850 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
851 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
852 assistant for policy or administration. An employee serving in either one of these two positions shall be

853 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in
854 this exempt capacity;

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

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

858 23. Employees of the Virginia College Savings Plan;

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

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

866 26. Employees of the Virginia Indigent Defense Commission;

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

869 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic
870 Beverage and Cannabis Control Authority; and

871 29. Officers and employees of the Fort Monroe Authority.

872 **§ 2.2-3114. Disclosure by state officers and employees.**

873 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant
874 Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any
875 circuit court, judges and substitute judges of any district court, members of the State Corporation
876 Commission, members of the Virginia Workers' Compensation Commission, members of the
877 Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement
878 System, members of the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
879 Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia

880 Lottery Board and other persons occupying such offices or positions of trust or employment in state
881 government, including members of the governing bodies of authorities, as may be designated by the
882 Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules
883 Committee of the General Assembly, shall file with the Council, as a condition to assuming office or
884 employment, a disclosure statement of their personal interests and such other information as is required
885 on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement
886 annually on or before February 1.

887 B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of
888 all policy and supervisory boards, commissions and councils in the executive branch of state government,
889 other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia
890 Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery
891 Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal
892 interests and such other information as is required on the form prescribed by the Council pursuant to §
893 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen
894 members of other boards, commissions and councils, including advisory boards and authorities, may be
895 required to file a disclosure form if so designated by the Governor, in which case the form shall be that
896 prescribed by the Council pursuant to § 2.2-3118.

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

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

904 E. Any officer or employee of state government who has a personal interest in any transaction
905 before the governmental or advisory agency of which he is an officer or employee and who is disqualified
906 from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to

907 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name
908 and address of the business and the address or parcel number for the real estate if the interest involves a
909 business or real estate, and his disclosure shall also be reflected in the public records of the agency for
910 five years in the office of the administrative head of the officer's or employee's governmental agency or
911 advisory agency or, if the agency has a clerk, in the clerk's office.

912 F. An officer or employee of state government who is required to declare his interest pursuant to
913 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the
914 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member
915 of a business, profession, occupation, or group the members of which are affected by the transaction, and
916 (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer
917 or employee shall either make his declaration orally to be recorded in written minutes for his agency or
918 file a signed written declaration with the clerk or administrative head of his governmental or advisory
919 agency, as appropriate, who shall, in either case, retain and make available for public inspection such
920 declaration for a period of five years from the date of recording or receipt. If reasonable time is not
921 available to comply with the provisions of this subsection prior to participation in the transaction, the
922 officer or employee shall prepare and file the required declaration by the end of the next business day.

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

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

937 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
938 **investigations.**

939 The following information contained in a public record is excluded from the mandatory disclosure
940 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
941 disclosure is prohibited by law. Redaction of information excluded under this section from a public record
942 shall be conducted in accordance with § 2.2-3704.01.

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

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

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

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

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

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

975 7. Investigative notes, correspondence and information furnished in confidence, and records
976 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the
977 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate
978 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud
979 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector
980 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an
981 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the
982 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor
983 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed
984 by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
985 statute have responsibility for conducting an investigation of any officer, department, or program of such
986 body. Information contained in completed investigations shall be disclosed in a form that does not reveal

987 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
988 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
989 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve
990 the complaint. If an investigation does not lead to corrective action, the identity of the person who is the
991 subject of the complaint may be released only with the consent of the subject person. Local governing
992 bodies shall adopt guidelines to govern the disclosure required by this subdivision.

993 8. The names, addresses, and telephone numbers of complainants furnished in confidence with
994 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
995 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
996 seq.) made to a local governing body.

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

1000 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §
1001 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
1002 unauthorized alteration, or improper administration of tests by local school board employees responsible
1003 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of
1004 such information to (i) a local school board or division superintendent for the purpose of permitting such
1005 board or superintendent to consider or to take personnel action with regard to an employee or (ii) any
1006 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
1007 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
1008 does not compromise the security of any test mandated by the Board.

1009 11. Information contained in (i) an application for licensure or renewal of a license for teachers
1010 and other school personnel, including transcripts or other documents submitted in support of an
1011 application, and (ii) an active investigation conducted by or for the Board of Education related to the
1012 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel
1013 licenses including investigator notes and other correspondence and information, furnished in confidence

1014 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
1015 application information to the applicant at his own expense or (b) investigation information to a local
1016 school board or division superintendent for the purpose of permitting such board or superintendent to
1017 consider or to take personnel action with regard to an employee. Information contained in completed
1018 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
1019 supplying information to investigators. The completed investigation information disclosed shall include
1020 information regarding the school or facility involved, the identity of the person who was the subject of the
1021 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation
1022 fails to support a complaint or does not lead to corrective action, the identity of the person who was the
1023 subject of the complaint may be released only with the consent of the subject person. No personally
1024 identifiable information regarding a current or former student shall be released except as permitted by
1025 state or federal law.

1026 12. Information provided in confidence and related to an investigation by the Attorney General
1027 under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10
1028 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-
1029 1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive
1030 for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise
1031 prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying
1032 information, witnesses, or other individuals involved in the investigation.

1033 13. Records of active investigations being conducted by the Department of Behavioral Health and
1034 Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

1035 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

1036 A. Public bodies may hold closed meetings only for the following purposes:

1037 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
1038 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
1039 officers, appointees, or employees of any public body; and evaluation of performance of departments or
1040 schools of public institutions of higher education where such evaluation will necessarily involve

1041 discussion of the performance of specific individuals. Any teacher shall be permitted to be present during
1042 a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the
1043 teacher and some student and the student involved in the matter is present, provided the teacher makes a
1044 written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision,
1045 however, shall be construed to authorize a closed meeting by a local governing body or an elected school
1046 board to discuss compensation matters that affect the membership of such body or board collectively.

1047 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
1048 involve the disclosure of information contained in a scholastic record concerning any student of any public
1049 institution of higher education in the Commonwealth or any state school system. However, any such
1050 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be
1051 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if
1052 such student, parents, or guardians so request in writing and such request is submitted to the presiding
1053 officer of the appropriate board.

1054 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
1055 disposition of publicly held real property, where discussion in an open meeting would adversely affect the
1056 bargaining position or negotiating strategy of the public body.

1057 4. The protection of the privacy of individuals in personal matters not related to public business.

1058 5. Discussion concerning a prospective business or industry or the expansion of an existing
1059 business or industry where no previous announcement has been made of the ~~business'~~ business's or
1060 industry's interest in locating or expanding its facilities in the community.

1061 6. Discussion or consideration of the investment of public funds where competition or bargaining
1062 is involved, where, if made public initially, the financial interest of the governmental unit would be
1063 adversely affected.

1064 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
1065 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
1066 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
1067 litigation" means litigation that has been specifically threatened or on which the public body or its legal

1068 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this
1069 subdivision shall be construed to permit the closure of a meeting merely because an attorney representing
1070 the public body is in attendance or is consulted on a matter.

1071 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
1072 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
1073 construed to permit the closure of a meeting merely because an attorney representing the public body is
1074 in attendance or is consulted on a matter.

1075 9. Discussion or consideration by governing boards of public institutions of higher education of
1076 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
1077 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
1078 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
1079 accepted by a public institution of higher education in the Commonwealth shall be subject to public
1080 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
1081 (i) "foreign government" means any government other than the United States government or the
1082 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
1083 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the
1084 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
1085 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under
1086 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or
1087 national of the United States or a trust territory or protectorate thereof.

1088 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
1089 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
1090 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private
1091 sources.

1092 11. Discussion or consideration of honorary degrees or special awards.

1093 12. Discussion or consideration of tests, examinations, or other information used, administered, or
1094 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

1095 13. Discussion, consideration, or review by the appropriate House or Senate committees of
1096 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
1097 statement filed by the member, provided the member may request in writing that the committee meeting
1098 not be conducted in a closed meeting.

1099 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or
1100 to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
1101 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position
1102 of the governing body or the establishment of the terms, conditions and provisions of the siting agreement,
1103 or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

1104 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
1105 activity and estimating general and nongeneral fund revenues.

1106 16. Discussion or consideration of medical and mental health records subject to the exclusion in
1107 subdivision 1 of § 2.2-3705.5.

1108 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1109 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
1110 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
1111 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
1112 and subdivision 11 of § 2.2-3705.7.

1113 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or
1114 discloses the identity of, or information tending to identify, any prisoner who (i) provides information
1115 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or
1116 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1117 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1118 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1119 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
1120 or emergency service officials concerning actions taken to respond to such matters or a related threat to
1121 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,

1122 where discussion in an open meeting would jeopardize the safety of any person or the security of any
1123 facility, building, structure, information technology system, or software program; or discussion of reports
1124 or plans related to the security of any governmental facility, building or structure, or the safety of persons
1125 using such facility, building or structure.

1126 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,
1127 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1128 trustees of a trust established by one or more local public bodies to invest funds for postemployment
1129 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,
1130 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board
1131 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or
1132 disposition of a security or other ownership interest in an entity, where such security or ownership interest
1133 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)
1134 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared
1135 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings
1136 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia
1137 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or
1138 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the
1139 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of
1140 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing
1141 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of
1142 any investment held, the amount invested or the present value of such investment.

1143 21. Those portions of meetings in which individual child death cases are discussed by the State
1144 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
1145 individual child death cases are discussed by a regional or local child fatality review team established
1146 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1147 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1148 which individual adult death cases are discussed by the state Adult Fatality Review Team established

1149 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1150 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
1151 meetings in which individual death cases are discussed by overdose fatality review teams established
1152 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
1153 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
1154 meetings in which individual death cases of persons with developmental disabilities are discussed by the
1155 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1156 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1157 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1158 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1159 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,
1160 business-related information pertaining to the operations of the University of Virginia Medical Center or
1161 Eastern Virginia Medical School, as the case may be, including business development or marketing
1162 strategies and activities with existing or future joint venturers, partners, or other parties with whom the
1163 University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed,
1164 or forms, any arrangement for the delivery of health care, if disclosure of such information would
1165 adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as
1166 the case may be.

1167 23. Discussion or consideration by the Virginia Commonwealth University Health System
1168 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the
1169 acquisition or disposition by the Authority of real property, equipment, or technology software or
1170 hardware and related goods or services, where disclosure would adversely affect the bargaining position
1171 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities
1172 of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing
1173 or operational strategies plans of the Authority where disclosure of such strategies or plans would
1174 adversely affect the competitive position of the Authority; and members of the Authority's medical and
1175 teaching staffs and qualifications for appointments thereto.

1176 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee
1177 within the Department of Health Professions to the extent such discussions identify any practitioner who
1178 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1179 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1180 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by
1181 or on behalf of individuals who have requested information about, applied for, or entered into prepaid
1182 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title
1183 23.1 is discussed.

1184 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery
1185 Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as
1186 defined in § 56-484.12, related to the provision of wireless E-911 service.

1187 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1188 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1189 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a
1190 decision or meetings of health regulatory boards or conference committees of such boards to consider
1191 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
1192 requested by either of the parties.

1193 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-
1194 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in
1195 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
1196 public entity concerning such records.

1197 29. Discussion of the award of a public contract involving the expenditure of public funds,
1198 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1199 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the
1200 public body.

1201 30. Discussion or consideration of grant or loan application information subject to the exclusion
1202 in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

1203 31. Discussion or consideration by the Commitment Review Committee of information subject to
1204 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
1205 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1206 32. Discussion or consideration of confidential proprietary information and trade secrets developed
1207 and held by a local public body providing certain telecommunication services or cable television services
1208 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
1209 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
1210 seq.).

1211 33. Discussion or consideration by a local authority created in accordance with the Virginia
1212 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade
1213 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

1214 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
1215 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

1216 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
1217 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal
1218 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

1219 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
1220 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
1221 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
1222 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
1223 recover scholarship awards.

1224 37. Discussion or consideration by the Virginia Port Authority of information subject to the
1225 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the
1226 Virginia Port Authority.

1227 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
1228 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
1229 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College

1230 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory
1231 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of
1232 § 2.2-3705.7.

1233 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-
1234 3705.6 related to economic development.

1235 40. Discussion or consideration by the Board of Education of information relating to the denial,
1236 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

1237 41. Those portions of meetings of the Virginia Military Advisory Council or any commission
1238 created by executive order for the purpose of studying and making recommendations regarding preventing
1239 closure or realignment of federal military and national security installations and facilities located in
1240 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
1241 appointed by a local governing body, during which there is discussion of information subject to the
1242 exclusion in subdivision 8 of § 2.2-3705.2.

1243 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1244 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
1245 information of donors.

1246 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
1247 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
1248 contained in grant applications.

1249 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
1250 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
1251 charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain
1252 proprietary information of a private entity provided to the Authority.

1253 45. Discussion or consideration of personal and proprietary information related to the resource
1254 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
1255 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
1256 that contain information that has been certified for release by the person who is the subject of the

1257 information or transformed into a statistical or aggregate form that does not allow identification of the
1258 person who supplied, or is the subject of, the information.

1259 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage and
1260 Cannabis Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related
1261 to investigations of applicants for licenses and permits and of licensees and permittees.

1262 47. Discussion or consideration of grant, loan, or investment application records subject to the
1263 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-
1264 2351 et seq.) of Chapter 22.

1265 48. Discussion or development of grant proposals by a regional council established pursuant to
1266 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and
1267 Opportunity Board.

1268 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
1269 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
1270 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
1271 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
1272 §§ 15.2-1627.5 and 63.2-1605.

1273 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
1274 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
1275 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
1276 subdivision 33 of § 2.2-3705.7.

1277 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
1278 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
1279 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
1280 § 60.2-114.

1281 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership
1282 Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the
1283 Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1284 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
1285 § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion,
1286 consideration, or review of matters related to investigations exempt from disclosure under subdivision 1
1287 of § 2.2-3705.3.

1288 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007
1289 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting
1290 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
1291 disclosure under subdivision 1 of § 2.2-3705.3.

1292 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1293 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
1294 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
1295 motion that shall have its substance reasonably identified in the open meeting.

1296 C. Public officers improperly selected due to the failure of the public body to comply with the
1297 other provisions of this section shall be de facto officers and, as such, their official actions are valid until
1298 they obtain notice of the legal defect in their election.

1299 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
1300 more public bodies, or their representatives, but these conferences shall be subject to the same procedures
1301 for holding closed meetings as are applicable to any other public body.

1302 E. This section shall not be construed to (i) require the disclosure of any contract between the
1303 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§
1304 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to
1305 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered
1306 to issue industrial revenue bonds by general or special law, to identify a business or industry to which
1307 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record
1308 at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

1309 **§ 2.2-3802. Systems to which chapter inapplicable.**

1310 The provisions of this chapter shall not apply to personal information systems:

- 1311 1. Maintained by any court of the Commonwealth;
- 1312 2. Which may exist in publications of general circulation;
- 1313 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137
- 1314 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
- 1315 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
- 1316 be posted on the Internet pursuant to § 9.1-913;
- 1317 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
- 1318 16.1-225;
- 1319 5. Maintained by agencies concerning persons required by law to be licensed in the
- 1320 Commonwealth to engage in the practice of any profession, in which case the names and addresses of
- 1321 persons applying for or possessing the license may be disseminated upon written request to a person
- 1322 engaged in the profession or business of offering professional educational materials or courses for the sole
- 1323 purpose of providing the licensees or applicants for licenses with informational materials relating solely
- 1324 to available professional educational materials or courses, provided the disseminating agency is
- 1325 reasonably assured that the use of the information will be so limited;
- 1326 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
- 1327 Commission, the Virginia Racing Commission, and the Virginia Alcoholic Beverage and Cannabis
- 1328 Control Authority;
- 1329 7. Maintained by any of the following and that deal with investigations and intelligence gathering
- 1330 related to criminal activity:
 - 1331 a. The Department of State Police;
 - 1332 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - 1333 c. Police departments of cities, counties, and towns;
 - 1334 d. Sheriff's departments of counties and cities;
 - 1335 e. Campus police departments of public institutions of higher education as established by Article
 - 1336 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 - 1337 f. The Division of Capitol Police.

1338 8. Maintained by local departments of social services regarding alleged cases of child abuse or
1339 neglect while such cases are also subject to an ongoing criminal prosecution;

1340 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

1341 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the
1342 promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons
1343 requesting information on those subjects may be disseminated upon written request to a person engaged
1344 in the business of providing travel services or distributing travel information, provided the Virginia
1345 Tourism Authority is reasonably assured that the use of the information will be so limited;

1346 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
1347 Services and the Department of Forensic Science, which deal with scientific investigations relating to
1348 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

1349 12. Maintained by the Department of Corrections or the Office of the State Inspector General that
1350 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
1351 (§ 2.2-307 et seq.);

1352 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of
1353 state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste
1354 and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town
1355 or a school board that deals with local investigations required by § 15.2-2511.2;

1356 14. Maintained by the Department of Social Services or any local department of social services
1357 relating to public assistance fraud investigations;

1358 15. Maintained by the Department of Social Services related to child welfare or public assistance
1359 programs when requests for personal information are made to the Department of Social Services. Requests
1360 for information from these systems shall be made to the appropriate local department of social services
1361 that is the custodian of that record. Notwithstanding the language in this section, an individual shall not
1362 be prohibited from obtaining information from the central registry in accordance with the provisions of §
1363 63.2-1515; and

1364 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services,
1365 adult protective services, or auxiliary grants when requests for personal information are made to the
1366 Department for Aging and Rehabilitative Services. Requests for information from these systems shall be
1367 made to the appropriate local department of social services that is the custodian of that record.

1368 **§ 2.2-4024. Hearing officers.**

1369 A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided
1370 over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court
1371 and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-
1372 finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a
1373 hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The
1374 Executive Secretary may promulgate rules necessary for the administration of the hearing officer system
1375 and shall have the authority to establish the number of hearing officers necessary to preside over
1376 administrative hearings in the Commonwealth.

1377 Prior to being included on the list, all hearing officers shall meet the following minimum standards:

- 1378 1. Active membership in good standing in the Virginia State Bar;
1379 2. Active practice of law for at least five years; and
1380 3. Completion of a course of training approved by the Executive Secretary of the Supreme Court.

1381 In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the
1382 Executive Secretary may require additional training before a hearing officer shall be assigned to a
1383 proceeding before that agency.

1384 B. On request from the head of an agency, the Executive Secretary shall name a hearing officer
1385 from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting
1386 geographic preference and specialized training or knowledge shall be maintained by the Executive
1387 Secretary if an agency demonstrates the need.

1388 C. A hearing officer appointed in accordance with this section shall be subject to disqualification
1389 as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-
1390 4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the

1391 Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with
1392 particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or
1393 the applicable rule of practice requiring disqualification.

1394 The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

1395 D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a
1396 case decision matter shall render that recommendation or conclusion as follows:

1397 1. If the agency's written regulations or procedures require the hearing officer to render a
1398 recommendation or conclusion within a specified time period, the hearing officer shall render the
1399 recommendation or conclusion on or before the expiration of the specified period; and

1400 2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90
1401 days from the date of the case decision proceeding or from a later date agreed to by the named party and
1402 the agency.

1403 If the hearing officer does not render a decision within the time required by this subsection, then
1404 the agency or the named party to the case decision may provide written notice to the hearing officer and
1405 the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days
1406 from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall
1407 remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State
1408 Bar for possible disciplinary action, unless good cause is shown for the delay.

1409 E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause
1410 after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render
1411 a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for
1412 the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary
1413 for reconsideration, followed by judicial review in accordance with this chapter.

1414 F. This section shall not apply to hearings conducted by (i) any commission or board where all of
1415 the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage and Cannabis Control
1416 Authority, the Virginia Workers' Compensation Commission, the State Corporation Commission, the
1417 Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et

1418 seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle Dealer Board
1419 under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board
1420 convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to
1421 the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by
1422 the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet
1423 the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice
1424 law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii)
1425 shall participate in periodic training courses.

1426 G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to
1427 hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of Wildlife
1428 Resources, the Virginia Housing Development Authority, the Milk Commission, and the Virginia
1429 Resources Authority pursuant to their basic laws.

1430 **§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for**
1431 **certain transactions; limitations.**

1432 A. The following public bodies may enter into contracts without competitive sealed bidding or
1433 competitive negotiation:

1434 1. The Director of the Department of Medical Assistance Services for special services provided
1435 for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a
1436 determination in advance after reasonable notice to the public and set forth in writing that competitive
1437 sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or
1438 would constitute an imminent threat to the health or welfare of such recipients. The writing shall document
1439 the basis for this determination.

1440 2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and
1441 publication of certain data submitted by health care providers and for the development of a methodology
1442 to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2
1443 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice
1444 to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such

1445 services is not fiscally advantageous to the public. The writing shall document the basis for this
1446 determination. Such agreements and contracts shall be based on competitive principles.

1447 3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-
1448 146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

1449 4. The Virginia Alcoholic Beverage and Cannabis Control Authority for the purchase of alcoholic
1450 beverages.

1451 5. The Department for Aging and Rehabilitative Services, for the administration of elder rights
1452 programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the
1453 Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care
1454 ombudsman program or (ii) designated area agencies on aging.

1455 6. The Department of Health for ~~(a)~~ (i) child restraint devices, pursuant to § 46.2-1097; ~~(b)~~ (ii)
1456 health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal
1457 Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery
1458 of primary health care services in a community ~~(i)~~ (a) as federally qualified health centers designated by
1459 the Health Care Financing Administration or ~~(ii)~~ (b) at a reduced or sliding fee scale or without charge; or
1460 ~~(c)~~ (iii) contracts with laboratories providing cytology and related services if competitive sealed bidding
1461 and competitive negotiations are not fiscally advantageous to the public to provide quality control as
1462 prescribed in writing by the Commissioner of Health.

1463 7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and
1464 support of its production facilities, provided the procurement is accomplished using procedures that ensure
1465 as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such
1466 procedures shall require documentation of the basis for awarding contracts under this section.

1467 8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the
1468 provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect
1469 to the sale of food, beverages and souvenirs at such facilities.

1470 9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of
1471 tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the

1472 Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on
1473 competitive principles.

1474 10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271,
1475 as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person
1476 on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical
1477 conditions, age, marital status, or disability in the procurement of goods and services.

1478 11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-
1479 5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-
1480 5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing
1481 legislation, provided that these entities shall not discriminate against any person on the basis of race, color,
1482 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or
1483 disability in the procurement of goods and services.

1484 12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts
1485 of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color,
1486 religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or
1487 disability in the procurement of goods and services.

1488 13. Public bodies for insurance or electric utility services if purchased through an association of
1489 which it is a member if the association was formed and is maintained for the purpose of promoting the
1490 interest and welfare of and developing close relationships with similar public bodies, provided such
1491 association has procured the insurance or electric utility services by use of competitive principles and
1492 provided that the public body has made a determination in advance after reasonable notice to the public
1493 and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally
1494 advantageous to the public. The writing shall document the basis for this determination.

1495 14. Public bodies administering public assistance and social services programs as defined in §
1496 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services
1497 under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control
1498 Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs

1499 if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or
1500 services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

1501 15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to
1502 Chapter 471, as amended, of the Acts of Assembly of 1964.

1503 B. No contract for the construction of any building or for an addition to or improvement of an
1504 existing building by any local government or subdivision of local government for which state funds of not
1505 more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by
1506 appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall
1507 be let except after competitive sealed bidding or after competitive negotiation as provided under
1508 subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids
1509 or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

1510 **§ 3.2-1010. Enforcement of chapter; summons.**

1511 Any conservation police officer or law-enforcement officer as defined in § 9.1-101, excluding
1512 certain members of the Virginia Alcoholic Beverage and Cannabis Control Authority, may enforce the
1513 provisions of this chapter and the regulations adopted hereunder as well as those who are so designated
1514 by the Commissioner. Those designated by the Commissioner may issue a summons to any person who
1515 violates any provision of this chapter to appear at a time and place to be specified in such summons.

1516 **§ 3.2-3008. Virginia Spirits Board; purpose; composition and appointment of members;**
1517 **quorum; meeting.**

1518 A. The Virginia Spirits Board is established within the Department. The purpose of the Board is
1519 to foster the development of the Virginia spirits industry by expanding spirits research, increasing
1520 education, and promoting the production of ingredients necessary for alcohol distillation and the
1521 production of spirits in the Commonwealth.

1522 B. The Board shall consist of 11 members as follows: the Commissioner and the Chief Executive
1523 Officer of the Virginia Alcoholic Beverage and Cannabis Control Authority, both of whom shall serve ex
1524 officio without voting privileges, or their designees, and nine voting nonlegislative citizen members to be
1525 appointed by the Governor, three of whom shall be coopers or maltsters and six of whom shall be owners

1526 or operators of a distillery in the Commonwealth. Nonlegislative citizen members shall be citizens of the
1527 Commonwealth. The Governor shall make his appointments upon consideration of the recommendations
1528 made by any cooper or maltster or any owner or operator of a distillery. Each entity or person shall submit
1529 two or more recommendations for each available position at least 90 days before the expiration of the
1530 member's term for which the recommendation is being provided. If such entities or persons fail to provide
1531 the nominations at least 90 days before the expiration date pursuant to this section, the Governor may
1532 appoint other nominees that meet the foregoing criteria.

1533 C. A majority of the members of the Board shall constitute a quorum, but a two-thirds vote of the
1534 members present shall be required for passage of items taken up by the Board. The Board shall meet at
1535 least four times each year. The meetings of the Board shall be held at the call of the chairman or whenever
1536 the majority of the members so request.

1537 **§ 3.2-3906. Board to adopt regulations.**

1538 The Board may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.),
1539 including:

- 1540 1. Licensing of businesses that manufacture, sell, store, recommend for use, mix, or apply
1541 pesticides;
- 1542 2. Registration of pesticides for manufacture, distribution, sale, storage, or use;
- 1543 3. Requiring reporting and record keeping related to licensing and registration;
- 1544 4. Establishing training, testing and standards for certification of commercial applicators,
1545 registered technicians, and private applicators;
- 1546 5. Revoking, suspending or denying licenses (business), registration (products), and certification
1547 or certificate (applicators or technicians);
- 1548 6. Requiring licensees and certificate holders to inform the public when using pesticides in and
1549 around structures;
- 1550 7. Establishing a fee structure for licensure, registration and certification to defray the costs of
1551 implementing this chapter;

1552 8. Classifying or subclassifying certification or certificates to be issued under this chapter. Such
1553 classifications may include agricultural, forest, ornamental, aquatic, right-of-way or industrial,
1554 institutional, structural or health-related pest control;

1555 9. Restricting or prohibiting the sale or use and disposal of any pesticide or pesticide container or
1556 residuals that: (i) undesirably persists in the environment or increases due to biological amplification or
1557 unreasonable adverse effects on the environment; or (ii) because of toxicity or inordinate hazard to man,
1558 animal, bird or plant may be contrary to the public interest;~~and~~

1559 10. Establishing criteria for or a list of pesticides that may be used on cannabis cultivated in
1560 compliance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 or Chapter 6 (§ 4.1-600 et seq.) of Title
1561 4.1; and

1562 11. Other regulations necessary or convenient to carry out the purposes of this chapter.

1563 **§ 3.2-4112. Definitions.**

1564 As used in this chapter, unless the context requires a different meaning:

1565 "Cannabis sativa product" means a product made from any part of the plant Cannabis sativa,
1566 including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer,
1567 whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by
1568 federal law.

1569 "Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell
1570 such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law
1571 or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal
1572 law.

1573 "Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in
1574 industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys
1575 industrial hemp for personal use or retail sale in Virginia.

1576 "Dealership" means the location at which a dealer stores or intends to store the industrial hemp in
1577 which he deals.

1578 "Grow" means to plant, cultivate, or harvest a plant or crop.

1579 "Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial
1580 hemp.

1581 "Hemp product" means ~~any finished a product that is otherwise lawful and~~ that contains industrial
1582 hemp, ~~including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil~~
1583 ~~containing an industrial hemp extract, or food or food additives for human consumption and has completed~~
1584 all stages of processing needed for the product.

1585 "Hemp product intended for smoking" means any hemp product intended to be consumed by
1586 inhalation.

1587 "Hemp testing laboratory" means a laboratory licensed pursuant to subsection A of § 3.2-4117.1
1588 to test hemp products or a marijuana testing facility as defined in § 4.1-600.

1589 "Industrial hemp" means any part of the plant Cannabis sativa, including seeds thereof ~~and any~~
1590 ~~derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer,~~ whether growing or not, with a
1591 concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial
1592 hemp" includes an industrial hemp extract that has not completed all stages of processing needed to
1593 convert the extract into a hemp product.

1594 "Process" means to convert industrial hemp into a hemp product.

1595 "Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial
1596 hemp.

1597 "Process site" means the location at which a processor processes or intends to process industrial
1598 hemp.

1599 "Production field" means the land or area on which a grower is growing or intends to grow
1600 industrial hemp.

1601 **§ 3.2-4113. Production of industrial hemp lawful.**

1602 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or
1603 his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his agent,
1604 dealer or his agent, or processor or his agent shall be prosecuted under Article 6 (§ 4.1-644 et seq.) of
1605 Chapter 6 of Title 4.1 or § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, or 18.2-250, or 18.2-250.1 for

1606 the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or
1607 indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§
1608 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be
1609 necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug
1610 Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the
1611 defendant.

1612 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or
1613 regulation.

1614 C. No person shall be prosecuted under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or §
1615 18.2-247, 18.2-248, 18.2-248.01, ~~18.2-248.1, or 18.2-250, or 18.2-250.1~~ for the involuntary growth of
1616 industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a
1617 production field, dealership, or process site.

1618 **§ 3.2-4114. Regulations.**

1619 A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to
1620 grow, deal in, or process industrial hemp or implement the provisions of this chapter.

1621 B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final
1622 rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in
1623 industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming
1624 Department regulations to such federal final rule. Such adoption of regulations by the Board shall be
1625 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

1626 C. The Board shall adopt regulations (i) establishing acceptable testing practices for a hemp
1627 product intended for smoking, (ii) identifying the contaminants for which a hemp product intended for
1628 smoking shall be tested, and (iii) establishing the maximum level of allowable contamination for each
1629 contaminant.

1630 D. The Board shall adopt regulations establishing (i) labeling and packaging requirements for a
1631 hemp product intended for smoking and a hemp product that is an industrial hemp extract intended for

1632 human consumption and (ii) advertising requirements for a hemp product intended for smoking and a
1633 hemp product that is an industrial hemp extract intended for human consumption.

1634 E. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§
1635 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the regulations
1636 adopted pursuant to subsection C or D. Prior to adopting any regulation pursuant to subsection C or D, the
1637 Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post
1638 the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i)
1639 a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address,
1640 and telephone number of the agency contact person responsible for receiving public comments. Such
1641 notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of
1642 public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to
1643 the promulgation or final adoption process for regulations adopted pursuant to subsection C or D. The
1644 Board shall consider and keep on file all public comments received for any regulation adopted pursuant
1645 to subsection C or D.

1646 **§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

1647 A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for any application for
1648 registration or license or renewal of registration or license allowed under this chapter. The Commissioner
1649 may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter. All fees
1650 collected by the Commissioner shall be deposited in the state treasury.

1651 B. The Commissioner shall notify the Superintendent of State Police of the locations of all
1652 industrial hemp production fields, dealerships, ~~and~~ process sites, and hemp testing laboratories.

1653 C. The Commissioner shall forward a copy or appropriate electronic record of each registration or
1654 license issued by the Commissioner under this chapter to the chief law-enforcement officer of the county
1655 or city where industrial hemp will be grown, dealt, or processed or where a hemp testing laboratory will
1656 be located.

1657 D. The Commissioner shall be responsible for monitoring the industrial hemp grown, dealt, or
1658 processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random

1659 testing of the industrial hemp, at the cost of the grower, dealer, or processor, for compliance with
1660 tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In
1661 addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial
1662 hemp at any production field, dealership, or process site during normal business hours without advance
1663 notice if he has reason to believe a violation of this chapter is occurring or has occurred.

1664 E. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the
1665 grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis
1666 sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested
1667 and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal
1668 law, or any Cannabis sativa product that the processor produces.

1669 F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are
1670 included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture
1671 Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the
1672 production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of
1673 Agriculture:

1674 1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the
1675 grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis
1676 sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested
1677 and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.

1678 2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater
1679 than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor
1680 to request that the Cannabis sativa be sampled and tested again before he requires its destruction.

1681 G. The Commissioner shall advise the Attorney General of the United States and the
1682 Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when,
1683 with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor
1684 processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that
1685 allowed by federal law or a processor produces a Cannabis sativa product.

1686 H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement
1687 Administration or appropriate federal agency that he determines to be necessary for the advancement of
1688 the industrial hemp industry.

1689 I. The Commissioner may establish a corrective action plan to address a negligent violation of any
1690 provision of this chapter.

1691 **§ 3.2-4116. Registration conditions.**

1692 A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing,
1693 dealing in, or processing any industrial hemp in the Commonwealth.

1694 B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1695 1. Maintain records that reflect compliance with this chapter and with all other state or federal laws
1696 regulating the growing, dealing in, or processing of industrial hemp;

1697 2. Retain all industrial hemp growing, dealing, or processing records for at least three years;

1698 3. Allow his production field, dealership, or process site to be inspected by and at the discretion of
1699 the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer
1700 of the locality in which the production field or dealership or process site exists;

1701 4. Allow the Commissioner or his designee to monitor and test the grower's, dealer's, or processor's
1702 industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes
1703 established pursuant to § 3.2-4114, at the cost of the grower, dealer, or processor; and

1704 5. If required by the Commissioner, destroy, at the cost of the grower, dealer, or processor and in
1705 a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, the
1706 dealer deals in, or the processor processes that has been tested and, following any re-sampling and retesting
1707 as authorized pursuant to the provisions of § 3.2-4114.2, is found to have a concentration of
1708 tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that
1709 the processor produces.

1710 C. A processor that processes a hemp product intended for smoking shall make available the results
1711 of the testing conducted in accordance with § 3.2-4122 to each retail establishment that offers for sale the
1712 processor's hemp product intended for smoking.

1713 § 3.2-4117.1. Hemp testing laboratory license.

1714 A. The Commissioner shall establish a licensure program to allow a laboratory to test industrial
1715 hemp or hemp products in the Commonwealth.

1716 B. Any laboratory seeking to test industrial hemp or hemp products in the Commonwealth shall
1717 apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum, the
1718 application shall include:

1719 1. The name and address of the laboratory.

1720 2. The address of each location at which the laboratory intends to test industrial hemp or hemp
1721 products.

1722 3. The name of the person who will oversee and be responsible for the testing and documentation
1723 that such person has earned from an institution of higher education accredited by a national or regional
1724 certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two
1725 years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences
1726 and a minimum of four years of post-degree laboratory experience.

1727 4. A signed statement that the applicant has no direct or indirect financial interest in a grower,
1728 processor, or dealer or in any other entity that may benefit from the production, manufacture, sale,
1729 purchase, or use of industrial hemp or a hemp product. Additionally, no person with a direct or indirect
1730 financial interest in the laboratory shall have a direct or indirect financial interest in a grower, processor,
1731 or dealer or in any other entity that may benefit from the production, manufacture, sale, purchase, or use
1732 of industrial hemp or a hemp product.

1733 5. Documentation that the laboratory is accredited pursuant to standard ISO/IEC 17025 of the
1734 International Organization for Standardization by a third-party accrediting body.

1735 6. Any other information required by the Commissioner.

1736 7. The payment of a nonrefundable application fee.

1737 C. Each license issued pursuant to this section shall be valid for a period of one year from the date
1738 of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a
1739 license renewal fee.

1740 D. Notwithstanding subsection B, a marijuana testing facility, as defined in § 4.1-600, shall not be
1741 required to apply to the Commissioner for a license to test industrial hemp or hemp products in the
1742 Commonwealth.

1743 **§ 3.2-4117.2. Hemp testing laboratory requirements.**

1744 A. A laboratory shall obtain a license issued pursuant to subsection A of § 3.2-4117.1 prior to
1745 testing any industrial hemp or hemp product in the Commonwealth. However, a marijuana testing facility,
1746 as defined in § 4.1-600, shall not be required to obtain a license issued pursuant to subsection A of § 3.2-
1747 4117.1 prior to testing industrial hemp or hemp products in the Commonwealth.

1748 B. A laboratory issued a license pursuant to subsection A of § 3.2-4117.1 shall:

1749 1. Maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization
1750 for Standardization by a third-party accrediting body.

1751 2. Employ a person who will oversee and be responsible for testing hemp products and who has
1752 earned from an institution of higher education accredited by a national or regional certifying authority at
1753 least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree
1754 laboratory experience of (ii) a bachelor's degree in chemical or biological sciences and a minimum of four
1755 years of post-degree laboratory experience.

1756 3. Allow the Commissioner or his designee to inspect each location at which the laboratory tests
1757 hemp products.

1758 C. If the results of a test required by (i) § 3.2-4122, (ii) regulations adopted pursuant to subsection
1759 C of § 3.2-4114, or (iii) regulations adopted pursuant to § 3.2-5145.4 indicate that the tested hemp product
1760 exceeds the maximum level of allowable contamination for any contaminant for which testing is required,
1761 a hemp testing laboratory shall, within 30 days of completing the test, notify the Commissioner of the test
1762 results.

1763 D. For each day any violation of this section occurs, the Commissioner may assess a penalty not
1764 to exceed (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or
1765 subsequent violation. All penalties collected by the Commissioner pursuant to this subsection shall be
1766 deposited in the state treasury.

- 1767 § 3.2-4122. Hemp products.
- 1768 A. Any hemp product intended for smoking that is distributed, offered for sale, or sold in the
- 1769 Commonwealth shall be:
- 1770 1. Tested in accordance with regulations adopted pursuant to subsection C of § 3.2-4114.
- 1771 2. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of §
- 1772 3.2-4114.
- 1773 3. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.
- 1774 B. Any hemp product that is or includes an industrial hemp extract intended for human
- 1775 consumption that is distributed, offered for sale, or sold in the Commonwealth shall be:
- 1776 1. Labeled and packaged in accordance with regulations adopted pursuant to subsection D of §
- 1777 3.2-4114.
- 1778 2. Advertised in accordance with regulations adopted pursuant to subsection D of § 3.2-4114.
- 1779 C. A processor shall destroy the batch of hemp product intended for smoking whose testing sample
- 1780 exceeds the maximum level of allowable contamination for each contaminant established in regulations
- 1781 adopted pursuant to subsection C of § 3.2-4114, unless remedial measures can bring the hemp product
- 1782 intended for smoking into compliance with such regulation.
- 1783 D. For any violation of subsection A or B by a processor or by a retail establishment, the
- 1784 Commissioner may assess a penalty not to exceed (i) \$100 for a first violation, (ii) \$200 for a second
- 1785 violation, and (iii) \$500 for a third or subsequent violation. For any violation of subsection C by a
- 1786 processor, the Commissioner may assess a penalty not to exceed (a) \$100 for a first violation, (b) \$200 for
- 1787 a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the
- 1788 Commissioner pursuant to this subsection shall be deposited in the state treasury.
- 1789 E. Notwithstanding the provisions of subsection A, any hemp product intended for smoking that
- 1790 is produced prior to the initial effective date of the regulations adopted pursuant to subsection C or D of §
- 1791 3.2-4114 may be distributed, offered for sale, or sold. Any person who distributes, offers for sale, or sells
- 1792 a hemp product intended for smoking pursuant to this subsection shall provide to the Commissioner, upon
- 1793 request, documentation of the date on which the product was processed.

1794 F. Notwithstanding the provisions of subsection B, any hemp product that is an industrial hemp
 1795 extract that is intended for human consumption and that is produced prior to the initial effective date of
 1796 the regulations adopted pursuant to subsection D of § 3.2-4114 may be distributed, offered for sale, or
 1797 sold. Any person who distributes, offers for sale, or sells a hemp product that is an industrial hemp extract
 1798 intended for human consumption pursuant to this subsection shall provide to the Commissioner, upon
 1799 request, documentation of the date on which the product was processed.

1800 Article 6.

1801 Edible Marijuana Products.

1802 **§ 3.2-5145.6. Definitions.**

1803 As used in this article, unless the context requires a different meaning:

1804 "Edible marijuana product" means the same as that term is defined in § 4.1-600.

1805 "Food" means any article that is intended for human consumption and introduction into commerce,
 1806 whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation
 1807 thereof. "Food" does not mean drug as defined in § 54.1-3401.

1808 **§ 3.2-5145.7. Edible marijuana products; approved food; adulterated food.**

1809 A. An edible marijuana product is a food and is subject to the requirements of this chapter and
 1810 regulations adopted pursuant to this chapter.

1811 B. An edible marijuana product that does not comply with the provisions of § 4.1-689 or health
 1812 and safety regulations adopted pursuant thereto shall be deemed to be adulterated.

1813 **§ 3.2-5145.8. Manufacturer of edible marijuana products.**

1814 A manufacturer of an edible marijuana product shall be an approved source if the manufacturer
 1815 operates:

- 1816 1. Under inspection by the Commissioner in the location in which such manufacturing occurs; and
- 1817 2. In compliance with the laws, regulations, or criteria that pertain to the manufacture of edible
- 1818 marijuana products in the location in which such manufacturing occurs.

1819 **§ 3.2-5145.9. Regulations.**

1820 A. The Board is authorized to adopt regulations for the efficient enforcement of this article.

1821 B. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§
1822 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption
1823 of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the
1824 Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post
1825 the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i)
1826 a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address,
1827 and telephone number of the agency contact person responsible for receiving public comments. Such
1828 notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of
1829 public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to
1830 the promulgation or final adoption process for regulations adopted pursuant to this section. The Board
1831 shall consider and keep on file all public comments received for any regulation adopted pursuant to this
1832 section.

1833 TITLE 4.1 ALCOHOLIC BEVERAGE AND CANNABIS CONTROL ACT.

1834 **§ 4.1-100. (Effective until July 1, 2021) Definitions.**

1835 As used in this title unless the context requires a different meaning:

1836 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
1837 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl
1838 alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
1839 formulas approved by the government of the United States.

1840 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
1841 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
1842 by inhalation.

1843 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
1844 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic
1845 beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine,
1846 or beer and capable of being consumed by a human being. Any liquid or solid containing more than one
1847 of the four varieties shall be considered as belonging to that variety which has the higher percentage of

1848 alcohol, however obtained, according to the order in which they are set forth in this definition; except that
1849 beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing
1850 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived
1851 from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an
1852 alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content
1853 of more than six percent by volume, as long as no more than one and one-half percent of the volume of
1854 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
1855 containing alcohol.

1856 "Art instruction studio" means any commercial establishment that provides to its customers all
1857 required supplies and step-by-step instruction in creating a painting or other work of art during a studio
1858 instructional session.

1859 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in
1860 which works of art are sold or displayed.

1861 "Authority" means the Virginia Alcoholic Beverage and Cannabis Control Authority created
1862 pursuant to this title.

1863 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

1864 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
1865 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
1866 offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight
1867 lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast
1868 establishment" includes any property offered to the public for short-term rental, as that term is defined in
1869 § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each
1870 person to whom overnight lodging is provided.

1871 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
1872 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent
1873 or more of alcohol by volume.

1874 "Bespoke clothier establishment" means a permanent retail establishment that offers, by
1875 appointment only, custom made apparel and that offers a membership program to customers. Such
1876 establishment shall be a permanent structure where measurements and fittings are performed on-site but
1877 apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities
1878 to properly secure any stock of alcoholic beverages.

1879 "Board" means the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
1880 Authority.

1881 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
1882 ounces.

1883 "Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats
1884 for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to
1885 33 U.S.C. § 59ii.

1886 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
1887 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
1888 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
1889 means the establishment so operated. A corporation or association shall not lose its status as a club because
1890 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
1891 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic
1892 beverages are served or consumed in the room where such charitable gaming is being conducted while
1893 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
1894 any person who is neither a member nor a bona fide guest of a member.

1895 Any such corporation or association which has been declared exempt from federal and state income
1896 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
1897 corporation or association.

1898 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
1899 of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
1900 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a

1901 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial
1902 owners' association that is responsible for the management, maintenance, and operation of the common
1903 areas thereof.

1904 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding
1905 alcoholic beverages.

1906 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
1907 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
1908 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
1909 agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract
1910 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
1911 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
1912 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
1913 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
1914 charge the farm winery for its services.

1915 "Convenience grocery store" means an establishment which (i) has an enclosed room in a
1916 permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible
1917 items intended for human consumption consisting of a variety of such items of the types normally sold in
1918 grocery stores.

1919 "Coworking establishment" means a facility that has at least 100 members, a majority of whom
1920 are 21 years of age or older, to whom it offers shared office space and related amenities, including desks,
1921 conference rooms, Internet access, printers, copiers, telephones, and fax machines.

1922 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
1923 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
1924 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
1925 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
1926 recreational and educational activities related to farming, livestock, and other rural activities.

1927 "Day spa" means any commercial establishment that offers to the public both massage therapy,
1928 performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services
1929 performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

1930 "Designated area" means a room or area approved by the Board for on-premises licensees.

1931 "Dining area" means a public room or area in which meals are regularly served.

1932 "Establishment" means, except for purposes of Chapter 6 (§ 4.1-600 et seq.), any place where
1933 alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

1934 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
1935 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
1936 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1937 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
1938 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
1939 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
1940 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
1941 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
1942 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
1943 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
1944 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
1945 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
1946 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
1947 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the
1948 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
1949 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
1950 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
1951 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
1952 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
1953 not include land zoned "residential conservation." Except for the limitation on land zoned "residential

1954 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
1955 zoning authority.

1956 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
1957 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
1958 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
1959 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
1960 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,
1961 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider
1962 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
1963 a gift shop.

1964 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
1965 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
1966 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1967 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
1968 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
1969 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
1970 furnished to persons.

1971 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1972 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
1973 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
1974 showing motion pictures to the public.

1975 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1976 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1977 four or more bedrooms. It shall also mean the person who operates such hotel.

1978 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1979 pursuant to this title.

1980 "Internet beer retailer" means a person who owns or operates an establishment with adequate
1981 inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders
1982 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

1983 "Internet wine retailer" means a person who owns or operates an establishment with adequate
1984 inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders
1985 are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

1986 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1987 observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

1988 "Licensed" means the holding of a valid license granted by the Authority. For purposes of Chapter
1989 6 (§ 4.1-600 et seq.), "licensed" means the holding of a valid license granted by the Authority pursuant to
1990 that chapter.

1991 "Licensee" means any person to whom a license has been granted by the Authority. For purposes
1992 of Chapter 6 (§ 4.1-600 et seq.), "licensee" means any person to whom a license has been granted by the
1993 Authority pursuant to that chapter.

1994 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an
1995 alcohol content of 25 percent by volume.

1996 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of
1997 alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of
1998 spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water,
1999 fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
2000 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
2001 this title, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller
2002 located outside the Commonwealth.

2003 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
2004 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
2005 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature
2006 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless

2007 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana"
2008 does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered
2009 pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112,
2010 containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from
2011 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or
2012 federal law. "Marijuana" and "cannabis" are interchangeable and identical in meaning.

2013 "Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-
2014 premises consumption, ingredients for the preparation of meals and entrees in professional kitchen
2015 facilities located at the establishment.

2016 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
2017 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
2018 specializing in full course meals with a single substantial entree.

2019 "Member of a bespoke clothier establishment" means a person who maintains a membership in the
2020 bespoke clothier establishment for a period of not less than one month by the payment of monthly,
2021 quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The
2022 minimum membership fee shall be not less than \$25 for any term of membership.

2023 "Member of a club" means (i) a person who maintains his membership in the club by the payment
2024 of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
2025 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
2026 descendants of a bona fide member, whether alive or deceased, of a national or international organization
2027 to which an individual lodge holding a club license is an authorized member in the same locality. It shall
2028 also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of
2029 resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

2030 "Member of a coworking establishment" means a person who maintains a membership in the
2031 coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or
2032 annual dues in the manner established by the rules of the coworking establishment. "Member of a

2033 coworking establishment" does not include an employee or any person with an ownership interest in the
2034 coworking establishment.

2035 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
2036 spirits.

2037 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring
2038 materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or
2039 preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or
2040 not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed
2041 by a Virginia corporation.

2042 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849
2043 and which is the county seat of Smyth County.

2044 "Place or premises" means, except for purposes of Chapter 6 (§ 4.1-600 et seq.), the real estate,
2045 together with any buildings or other improvements thereon, designated in the application for a license as
2046 the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be
2047 performed, except that portion of any such building or other improvement actually and exclusively used
2048 as a private residence.

2049 "Principal stockholder" means any person who individually or in concert with his spouse and
2050 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
2051 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
2052 and immediate family members has the power to vote or cause the vote of five percent or more of any
2053 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
2054 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
2055 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

2056 "Public place" means any place, building, or conveyance to which the public has, or is permitted
2057 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
2058 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
2059 highway, street, or lane.

2060 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
2061 private meetings or private parties limited in attendance to members and guests of a particular group,
2062 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or
2063 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
2064 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
2065 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
2066 use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner
2067 or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which
2068 are not licensed by the Board and on which alcoholic beverages are not sold.

2069 "Residence" means any building or part of a building or structure where a person resides, but does
2070 not include any part of a building which is not actually and exclusively used as a private residence, nor
2071 any part of a hotel or club other than a private guest room thereof.

2072 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
2073 facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable
2074 corporation with voluntary membership which, as its primary function, makes available golf, ski, and
2075 other recreational facilities both to its members and the general public; or (iii) operated by a corporation
2076 that operates as a management company which, as its primary function, makes available (a) vacation
2077 accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to
2078 members of the managed entities and the general public. The hotel or corporation shall have or manage a
2079 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
2080 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
2081 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
2082 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
2083 establishment in determining whether it shall be considered as a resort complex. All other pertinent
2084 qualifications established by the Board for a hotel operation shall be observed by such licensee.

2085 "Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant
2086 license, any establishment provided with special space and accommodation, where, in consideration of
2087 payment, meals or other foods prepared on the premises are regularly sold.

2088 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
2089 license, an established place of business (i) where meals with substantial entrees are regularly sold and
2090 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
2091 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
2092 course meals with a single substantial entree.

2093 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed
2094 marijuana establishment.

2095 "Retail marijuana products" means marijuana products that are manufactured and sold by a
2096 licensed marijuana establishment.

2097 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
2098 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, (i)
2099 alcoholic beverages or (ii) for purposes of Chapter 6 (§ 4.1-600 et seq.), marijuana.

2100 "Sangria" means a drink consisting of red or white wine mixed with some combination of
2101 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
2102 similar spirits.

2103 "Special agent" means an employee of the Virginia Alcoholic Beverage and Cannabis Control
2104 Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

2105 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
2106 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

2107 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
2108 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
2109 or any one or more of the last four named ingredients, but shall not include any such liquors completely
2110 denatured in accordance with formulas approved by the United States government.

2111 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
2112 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
2113 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
2114 product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in
2115 the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed
2116 an alcohol content of 21 percent by volume.

2117 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
2118 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting
2119 of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
2120 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
2121 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
2122 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

2123 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
2124 for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
2125 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
2126 such retail licensee.

2127 **§ 4.1-100. (Effective July 1, 2021) Definitions.**

2128 As used in this title unless the context requires a different meaning:

2129 "Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any
2130 fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl
2131 alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with
2132 formulas approved by the government of the United States.

2133 "Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic
2134 beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption
2135 by inhalation.

2136 "Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such
2137 varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic

2138 beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine,
2139 or beer and capable of being consumed by a human being. Any liquid or solid containing more than one
2140 of the four varieties shall be considered as belonging to that variety which has the higher percentage of
2141 alcohol, however obtained, according to the order in which they are set forth in this definition; except that
2142 beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing
2143 alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived
2144 from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an
2145 alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content
2146 of more than six percent by volume, as long as no more than one and one-half percent of the volume of
2147 the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients
2148 containing alcohol.

2149 "Arts venue" means a commercial or nonprofit establishment that is open to the public and in
2150 which works of art are sold or displayed.

2151 "Authority" means the Virginia Alcoholic Beverage and Cannabis Control Authority created
2152 pursuant to this title.

2153 "Barrel" means any container or vessel having a capacity of more than 43 ounces.

2154 "Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms;
2155 (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii)
2156 offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight
2157 lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast
2158 establishment" includes any property offered to the public for short-term rental, as that term is defined in
2159 § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each
2160 person to whom overnight lodging is provided.

2161 "Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of
2162 barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent
2163 or more of alcohol by volume.

2164 "Board" means the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
2165 Authority.

2166 "Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43
2167 ounces.

2168 "Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20
2169 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the
2170 Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24
2171 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with
2172 charging stations at every seat for cellular phones or other portable devices, and (vi) during the
2173 transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth
2174 in this title or Board regulation.

2175 "Club" means any private nonprofit corporation or association which is the owner, lessee, or
2176 occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other
2177 like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also
2178 means the establishment so operated. A corporation or association shall not lose its status as a club because
2179 of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter
2180 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic
2181 beverages are served or consumed in the room where such charitable gaming is being conducted while
2182 such gaming is being conducted and that no alcoholic beverages are made available upon the premises to
2183 any person who is neither a member nor a bona fide guest of a member.

2184 Any such corporation or association which has been declared exempt from federal and state income
2185 taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit
2186 corporation or association.

2187 "Commercial lifestyle center" means a mixed-use commercial development covering a minimum
2188 of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain
2189 stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a
2190 physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial

2191 owners' association that is responsible for the management, maintenance, and operation of the common
2192 areas thereof.

2193 "Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding
2194 alcoholic beverages.

2195 "Contract winemaking facility" means the premises of a licensed winery or farm winery that
2196 obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and
2197 crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an
2198 agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract
2199 winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm
2200 winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine.
2201 The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of
2202 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
2203 charge the farm winery for its services.

2204 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent
2205 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
2206 intended for human consumption consisting of a variety of such items of the types normally sold in grocery
2207 stores.

2208 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
2209 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
2210 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
2211 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
2212 recreational and educational activities related to farming, livestock, and other rural activities.

2213 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring
2214 little preparation, such as cheeses, salads, cooked meats, and related condiments.

2215 "Designated area" means a room or area approved by the Board for on-premises licensees.

2216 "Dining area" means a public room or area in which meals are regularly served.

2217 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist
2218 pursuant to a prescription and other medicines and items for home and general use.

2219 "Establishment" means, except for purposes of Chapter 6 (§ 4.1-600 et seq.), any place where
2220 alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

2221 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land
2222 zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
2223 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
2224 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
2225 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
2226 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
2227 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
2228 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
2229 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
2230 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
2231 manufactured by the institution shall be stored on the premises of such farm winery that shall be separate
2232 and apart from all other facilities of the institution, and (d) such farm winery is operated in strict
2233 conformance with the requirements of this clause (ii) and Board regulations. As used in this definition,
2234 the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the
2235 purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term
2236 "farm" as used in this definition includes all of the land owned or leased by the individual members of the
2237 cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land
2238 zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise
2239 permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does
2240 not include land zoned "residential conservation." Except for the limitation on land zoned "residential
2241 conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local
2242 zoning authority.

2243 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs,
2244 specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral
2245 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
2246 where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine
2247 or beer. Such shop may be located (i) on the premises or grounds of a government registered national,
2248 state or local historic building or site or (ii) within the premises of a museum. The Board shall consider
2249 the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered
2250 a gift shop.

2251 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer
2252 may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
2253 persons facilities for manufacturing, fermenting and bottling such wine or beer.

2254 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
2255 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
2256 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and
2257 educating the consuming public about local oysters and other seafood products.

2258 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
2259 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
2260 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
2261 furnished to persons.

2262 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

2263 "Grocery store" means an establishment that sells food and other items intended for human
2264 consumption, including a variety of ingredients commonly used in the preparation of meals.

2265 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3)
2266 of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
2267 showing motion pictures to the public.

2268 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
2269 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
2270 four or more bedrooms. It shall also mean the person who operates such hotel.

2271 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
2272 pursuant to this title.

2273 "Internet wine and beer retailer" means a person who owns or operates an establishment with
2274 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or
2275 telephone orders are taken and shipped directly to consumers and which establishment is not a retail store
2276 open to the public.

2277 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
2278 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

2279 "Licensed" means the holding of a valid license granted by the Authority. For purposes of Chapter
2280 6 (§ 4.1-600 et seq.), "licensed" means the holding of a valid license granted by the Authority pursuant to
2281 that chapter.

2282 "Licensee" means any person to whom a license has been granted by the Authority. For purposes
2283 of Chapter 6 (§ 4.1-600 et seq.), "licensee" means any person to whom a license has been granted by the
2284 Authority pursuant to that chapter.

2285 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an
2286 alcohol content of 25 percent by volume.

2287 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of
2288 alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of
2289 spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water,
2290 fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
2291 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
2292 this title, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller
2293 located outside the Commonwealth.

2294 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
2295 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
2296 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature
2297 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
2298 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana"
2299 does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered
2300 pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112,
2301 containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from
2302 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or
2303 federal law. "Marijuana" and "cannabis" are interchangeable and identical in meaning.

2304 "Marina store" means an establishment that is located on the same premises as a marina, is operated
2305 by the owner of such marina, and sells food and nautical and fishing supplies.

2306 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
2307 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
2308 specializing in full course meals with a single substantial entree.

2309 "Member of a club" means (i) a person who maintains his membership in the club by the payment
2310 of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
2311 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
2312 descendants of a bona fide member, whether alive or deceased, of a national or international organization
2313 to which an individual lodge holding a club license is an authorized member in the same locality. It shall
2314 also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of
2315 resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

2316 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
2317 spirits.

2318 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring
2319 materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or
2320 preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or

2321 not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed
2322 by a Virginia corporation.

2323 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849
2324 and which is the county seat of Smyth County.

2325 "Place or premises" means, except for purposes of Chapter 6 (§ 4.1-600 et seq.), the real estate,
2326 together with any buildings or other improvements thereon, designated in the application for a license as
2327 the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be
2328 performed, except that portion of any such building or other improvement actually and exclusively used
2329 as a private residence.

2330 "Principal stockholder" means any person who individually or in concert with his spouse and
2331 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
2332 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
2333 and immediate family members has the power to vote or cause the vote of five percent or more of any
2334 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
2335 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
2336 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

2337 "Public place" means any place, building, or conveyance to which the public has, or is permitted
2338 to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,
2339 and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any
2340 highway, street, or lane.

2341 "Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for
2342 private meetings or private parties limited in attendance to members and guests of a particular group,
2343 association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or
2344 similar facilities while such restaurant is closed to the public and in use for private meetings or parties
2345 limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such
2346 building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in
2347 use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner

2348 or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which
2349 are not licensed by the Board and on which alcoholic beverages are not sold.

2350 "Residence" means any building or part of a building or structure where a person resides, but does
2351 not include any part of a building that is not actually and exclusively used as a private residence, nor any
2352 part of a hotel or club other than a private guest room thereof.

2353 "Resort complex" means a facility (i) with a hotel owning year-round sports and recreational
2354 facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable
2355 corporation with voluntary membership which, as its primary function, makes available golf, ski, and
2356 other recreational facilities both to its members and to the general public; or (iii) operated by a corporation
2357 that operates as a management company which, as its primary function, makes available (a) vacation
2358 accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to
2359 members of the managed entities and the general public. The hotel or corporation shall have or manage a
2360 minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not
2361 contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is
2362 not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the
2363 same locality. The Authority may consider the purpose, characteristics, and operation of the applicant
2364 establishment in determining whether it shall be considered as a resort complex. All other pertinent
2365 qualifications established by the Board for a hotel operation shall be observed by such licensee.

2366 "Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license,
2367 any establishment provided with special space and accommodation, where, in consideration of payment,
2368 meals or other foods prepared on the premises are regularly sold.

2369 "Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant
2370 license, an established place of business (i) where meals with substantial entrees are regularly sold and
2371 (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals
2372 for consumption at tables in dining areas on the premises, and includes establishments specializing in full
2373 course meals with a single substantial entree.

2374 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed
2375 marijuana establishment.

2376 "Retail marijuana products" means marijuana products that are manufactured and sold by a
2377 licensed marijuana establishment.

2378 "Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for
2379 sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, (i)
2380 alcoholic beverages or (ii) for purposes of Chapter 6 (§ 4.1-600 et seq.), marijuana.

2381 "Sangria" means a drink consisting of red or white wine mixed with some combination of
2382 sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other
2383 similar spirits.

2384 "Special agent" means an employee of the Virginia Alcoholic Beverage and Cannabis Control
2385 Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

2386 "Special event" means an event sponsored by a duly organized nonprofit corporation or association
2387 and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

2388 "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable
2389 water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin,
2390 or any one or more of the last four named ingredients, but shall not include any such liquors completely
2391 denatured in accordance with formulas approved by the United States government.

2392 "Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural
2393 sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either
2394 with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no
2395 product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in
2396 the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed
2397 an alcohol content of 21 percent by volume.

2398 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume,
2399 and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting
2400 of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain

2401 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
2402 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
2403 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

2404 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees
2405 for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
2406 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by
2407 such retail licensee.

2408 **§ 4.1-101. Virginia Alcoholic Beverage and Cannabis Control Authority created; public**
2409 **purpose.**

2410 A. The General Assembly has determined that there exists in the Commonwealth a need to control
2411 the possession, sale, transportation, distribution, and delivery of alcoholic beverages, retail marijuana, and
2412 retail marijuana products in the Commonwealth. Further, the General Assembly determines that the
2413 creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote
2414 the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve
2415 this objective, there is hereby created an independent political subdivision of the Commonwealth,
2416 exclusive of the legislative, executive, or judicial branches of state government, to be known as the
2417 Virginia Alcoholic Beverage and Cannabis Control Authority. The Authority's exercise of powers and
2418 duties conferred by this title shall be deemed the performance of an essential governmental function and
2419 a matter of public necessity for which public moneys may be spent. The Board of Directors of the
2420 Authority is vested with control of the possession, sale, transportation, distribution, and delivery of
2421 alcoholic beverages, retail marijuana, and retail marijuana products in the Commonwealth, with plenary
2422 power to prescribe and enforce regulations and conditions under which alcoholic beverages, retail
2423 marijuana, and retail marijuana products are possessed, sold, transported, distributed, and delivered, so as
2424 to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety,
2425 welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers
2426 granted by this title shall be in all respects for the benefit of the citizens of the Commonwealth and for the
2427 promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the

2428 Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable
2429 compensation may be paid for services rendered to or for the Authority affecting one or more of its
2430 purposes, and benefits may be conferred that are in conformity with said purposes, and no private
2431 individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the
2432 Authority.

2433 B. The Virginia Alcoholic Beverage and Cannabis Control Authority shall consist of the Virginia
2434 Alcoholic Beverage and Cannabis Control Board of Directors, the Chief Executive Officer, and the agents
2435 and employees of the Authority. The Virginia Alcoholic Beverage and Cannabis Control Authority shall
2436 be deemed successor in interest to the Virginia Alcoholic Beverage Control Authority, the Department of
2437 Alcoholic Beverage Control, and the Alcoholic Beverage Control Board.

2438 C. Nothing contained in this title shall be construed as a restriction or limitation upon any powers
2439 that the Board of Directors of the Authority might otherwise have under any other law of the
2440 Commonwealth.

2441 **§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve**
2442 **fund.**

2443 A. All moneys collected by the Board shall be paid directly and promptly into the state treasury,
2444 or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on
2445 account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as
2446 required by § 2.2-1802.

2447 All moneys so paid into the state treasury, less the net profits determined pursuant to subsection
2448 C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i)
2449 the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and
2450 expenses incurred in establishing and maintaining government stores and in the administration of the
2451 provisions of this title, including the purchasing, building, leasing and operation of distilleries and the
2452 manufacture of alcoholic beverages.

2453 B. The net profits derived under the provisions of this title shall be transferred by the Comptroller
2454 to the general fund of the state treasury quarterly, within ~~forty~~ 50 days after the close of each quarter or as

2455 otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the
2456 net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of \$2.5 million in
2457 connection with the administration of this title and to provide for the depreciation on the buildings, plants,
2458 and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as
2459 provided in subsection A, net profits derived under the provisions of Chapter 6 (§ 4.1-600 et seq.) shall be
2460 appropriated as provided in § 4.1-607.

2461 C. ~~The term "net profits" as~~ As used in this section, "net profits" means the total of all moneys
2462 collected by the Board, less local marijuana tax revenues collected under § 4.1-637 and distributed
2463 pursuant to § 4.1-607 and all costs, expenses, and charges authorized by this section.

2464 **§ 4.1-121. Referendum on establishment of government stores.**

2465 A. The qualified voters of any county, city, or town having a population of 1,000 or more may file
2466 a petition with the circuit court of the county or city, or of the county wherein the town or the greater part
2467 thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia
2468 Alcoholic Beverage and Cannabis Control Authority of alcoholic beverages, other than beer and wine not
2469 produced by farm wineries, should be prohibited within that jurisdiction. The petition shall be signed by
2470 qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on
2471 January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of
2472 a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the
2473 order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the
2474 referendum in a newspaper of general circulation in the county, city, or town once a week for three
2475 consecutive weeks prior to the referendum.

2476 The question on the ballot shall be:

2477 "Shall the sale by the Virginia Alcoholic Beverage and Cannabis Control Authority of alcoholic
2478 beverages, other than beer and wine not produced by farm wineries, be prohibited in _____ (name
2479 of county, city, or town)?"

2480 The referendum shall be ordered and held and the results certified as provided in § 24.2-684.
2481 Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to
2482 the Board and to the governing body of the county, city, or town.

2483 B. Once a referendum has been held, no other referendum on the same question shall be held in
2484 the county, city, or town within four years of the date of the prior referendum. However, a town shall not
2485 be ~~prescribed~~ proscribed from holding a referendum within such period although an election has been held
2486 in the county in which the town or a part thereof is located less than four years prior thereto.

2487 **§ 4.1-124. (Effective until July 1, 2021) Referendum on the sale of mixed beverages.**

2488 A. The provisions of this title relating to the sale of mixed beverages shall be effective in any town,
2489 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum
2490 vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under
2491 this title should be prohibited. The qualified voters of a town, county, or supervisor's election district of a
2492 county may file a petition with the circuit court of the county asking that a referendum be held on the
2493 question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited
2494 within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10
2495 percent of the number registered in the town, county, or supervisor's election district on January 1
2496 preceding its filing or at least 100 qualified voters, whichever is greater.

2497 Petition requirements for any county shall be based on the number of registered voters in the
2498 county, including the number of registered voters in any town having a population in excess of 1,000
2499 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall
2500 order the election officials of the county to conduct a referendum on the question.

2501 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper
2502 of general circulation in the town, county, or supervisor's election district once a week for three
2503 consecutive weeks prior to the referendum.

2504 The question on the ballot shall be:

2505 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic
2506 Beverage and Cannabis Control Authority be prohibited in _____ (name of town, county, or
2507 supervisor's election district of county)?"

2508 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-
2509 681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the
2510 clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed
2511 beverages prohibited from sale by such referendum shall not be sold by restaurants within the town,
2512 county, or supervisor's election district of a county on or after 30 days following the entry of the order if
2513 a majority of the voters voting in the referendum have voted "Yes."

2514 The provisions of this section shall be applicable to towns having a population in excess of 1,000
2515 to the same extent and subject to the same conditions and limitations as are otherwise applicable to
2516 counties under this section. Such towns shall be treated as separate local option units, and only residents
2517 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such
2518 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote
2519 in any referendum held pursuant to this section for any county in which the town is located.

2520 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
2521 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100
2522 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants
2523 licensed under this title should be prohibited was previously held in the former city and a majority of the
2524 voters voting in such referendum voted "Yes."

2525 B. Once a referendum has been held, no other referendum on the same question shall be held in
2526 the town, county, or supervisor's election district of a county for a period of 23 months.

2527 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed
2528 on property dedicated for industrial or commercial development and controlled through the provision of
2529 public utilities and covenanting of the land by any multijurisdictional industrial development authority, as
2530 set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates
2531 under a partnership agreement between three or more counties, cities, or towns and such jurisdictions

2532 participate administratively and financially in the authority and (ii) the sale of mixed beverages is
2533 permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the
2534 counties and that the governing board of the authority authorizes an establishment located within the
2535 confines of such property to apply to the Board for such license. The appropriate license fees shall be paid
2536 for this privilege.

2537 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122,
2538 the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
2539 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

2540 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage
2541 restaurant license to a restaurant located on the premises of and operated by a private club exclusively for
2542 its members and their guests, subject to the qualifications and restrictions on the issuance of such license
2543 imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private
2544 club restricts its membership on the basis of race, color, creed, national origin or sex.

2545 **§ 4.1-124. (Effective July 1, 2021) Referendum on the sale of mixed beverages.**

2546 A. The provisions of this title relating to the sale of mixed beverages shall be effective in any town,
2547 county, or supervisor's election district of a county unless a majority of the voters voting in a referendum
2548 vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under
2549 this title should be prohibited. The qualified voters of a town, county, or supervisor's election district of a
2550 county may file a petition with the circuit court of the county asking that a referendum be held on the
2551 question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited
2552 within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10
2553 percent of the number registered in the town, county, or supervisor's election district on January 1
2554 preceding its filing or at least 100 qualified voters, whichever is greater.

2555 Petition requirements for any county shall be based on the number of registered voters in the
2556 county, including the number of registered voters in any town having a population in excess of 1,000
2557 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall
2558 order the election officials of the county to conduct a referendum on the question.

2559 The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper
2560 of general circulation in the town, county, or supervisor's election district once a week for three
2561 consecutive weeks prior to the referendum.

2562 The question on the ballot shall be:

2563 "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic
2564 Beverage and Cannabis Control Authority be prohibited in _____ (name of town, county, or
2565 supervisor's election district of county)?"

2566 The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-
2567 681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the
2568 clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed
2569 beverages prohibited from sale by such referendum shall not be sold by restaurants within the town,
2570 county, or supervisor's election district of a county on or after 30 days following the entry of the order if
2571 a majority of the voters voting in the referendum have voted "Yes."

2572 The provisions of this section shall be applicable to towns having a population in excess of 1,000
2573 to the same extent and subject to the same conditions and limitations as are otherwise applicable to
2574 counties under this section. Such towns shall be treated as separate local option units, and only residents
2575 of any such town shall be eligible to vote in any referendum held pursuant to this section for any such
2576 town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote
2577 in any referendum held pursuant to this section for any county in which the town is located.

2578 Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be
2579 prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100
2580 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants
2581 licensed under this title should be prohibited was previously held in the former city and a majority of the
2582 voters voting in such referendum voted "Yes."

2583 B. Once a referendum has been held, no other referendum on the same question shall be held in
2584 the town, county, or supervisor's election district of a county for a period of 23 months.

2585 C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed
2586 on property dedicated for industrial or commercial development and controlled through the provision of
2587 public utilities and covenanting of the land by any multijurisdictional industrial development authority, as
2588 set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates
2589 under a partnership agreement between three or more counties, cities, or towns and such jurisdictions
2590 participate administratively and financially in the authority and (ii) the sale of mixed beverages is
2591 permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the
2592 counties and that the governing board of the authority authorizes an establishment located within the
2593 confines of such property to apply to the Board for such license. The appropriate license fees shall be paid
2594 for this privilege.

2595 D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122,
2596 the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not
2597 produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

2598 E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage
2599 restaurant license to a restaurant located on the premises of and operated by a private club exclusively for
2600 its members and their guests, subject to the qualifications and restrictions on the issuance of such license
2601 imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private
2602 club restricts its membership on the basis of race, color, creed, national origin, or sex.

2603 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

2604 The Board may suspend or revoke any license other than a brewery license, in which case the
2605 Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

2606 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
2607 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
2608 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
2609 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
2610 percent or more of the membership interest of the limited liability company:

2611 a. Has misrepresented a material fact in applying to the Board for such license;

2612 b. Within the five years immediately preceding the date of the hearing held in accordance with §
2613 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth,
2614 of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the
2615 manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of
2616 Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or
2617 the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with
2618 any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or
2619 restrictions of the license granted by the Board;

2620 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
2621 under the laws of any state, or of the United States;

2622 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
2623 other persons have ownership interests in the business which have not been disclosed;

2624 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
2625 conducted under the license granted by the Board;

2626 f. Has been intoxicated or under the influence of some self-administered drug while upon the
2627 licensed premises;

2628 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
2629 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
2630 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

2631 h. Knowingly employs in the business conducted under such license, as agent, servant, or
2632 employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any
2633 court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the
2634 Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation,
2635 possession, use or sale of alcoholic beverages;

2636 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack
2637 of respect for law and order;

2638 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person
2639 whom he knew or had reason to believe was (i) ~~less~~ younger than 21 years of age, (ii) interdicted, or (iii)
2640 intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter
2641 upon such licensed premises;

2642 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except
2643 as provided under this title;

2644 l. Is physically unable to carry on the business conducted under such license or has been
2645 adjudicated incapacitated;

2646 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;

2647 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

2648 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has
2649 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use
2650 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
2651 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
2652 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
2653 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
2654 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any
2655 conduct related to the operation of the licensed business that facilitates the commission of any of the
2656 offenses set forth herein;

2657 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
2658 immediately adjacent to the licensed premises that ~~are~~ is owned or leased by the licensee, or (iii) any
2659 portion of public property immediately adjacent to the licensed premises from becoming a place where
2660 patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et
2661 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 (§
2662 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 (§ 18.2-
2663 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 Chapter
2664 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 Chapter 9 of

2665 Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed
2666 a continuing threat to the public safety; or

2667 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
2668 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
2669 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
2670 of public property immediately adjacent to the licensed premises.

2671 2. The place occupied by the licensee:

2672 a. Does not conform to the requirements of the governing body of the county, city or town in which
2673 such establishment is located, with respect to sanitation, health, construction or equipment, or to any
2674 similar requirements established by the laws of the Commonwealth or by Board regulations;

2675 b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or

2676 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
2677 drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs
2678 are regularly used or distributed. The Board may consider the general reputation in the community of such
2679 establishment in addition to any other competent evidence in making such determination.

2680 3. The licensee or any employee of the licensee discriminated against any member of the armed
2681 forces of the United States by prices charged or otherwise.

2682 4. The licensee, his employees, or any entertainer performing on the licensed premises has been
2683 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises
2684 and the licensee allowed such conduct to occur.

2685 5. Any cause exists for which the Board would have been entitled to refuse to grant such license
2686 had the facts been known.

2687 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
2688 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
2689 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
2690 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction

2691 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
2692 plan approved by the same locality to settle the outstanding liability.

2693 7. Any other cause authorized by this title.

2694 CHAPTER 6.

2695 CANNABIS CONTROL.

2696 Article 1.

2697 Definitions and General Provisions.

2698 **§ 4.1-600. Definitions.**

2699 As used in this chapter, unless the context requires a different meaning:

2700 "Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction
2701 that is calculated to induce sales of retail marijuana or retail marijuana products, including any written,
2702 printed, graphic, or other material, billboard, sign, or other outdoor display, publication, or radio or
2703 television broadcast.

2704 "Advisory Board" means the Cannabis Control Advisory Board established in § 4.1-601.

2705 "Board" means the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
2706 Authority.

2707 "Child-resistant" means, with respect to packaging or a container, (i) specially designed or
2708 constructed to be significantly difficult for a typical child under five years of age to open and not to be
2709 significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than
2710 a single use or that contains multiple servings, resealable.

2711 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,
2712 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"
2713 does not include manufacturing or testing.

2714 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
2715 marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

2716 "Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no
2717 wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

2718 "Licensed" means the holding of a valid license granted by the Authority pursuant to this chapter.

2719 "Licensee" means any person to whom a license has been granted by the Authority pursuant to this
2720 chapter.

2721 "Manufacturing" or "manufacture" means the production of marijuana products or the blending,
2722 infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana
2723 extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not
2724 include cultivation or testing.

2725 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
2726 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
2727 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include the mature
2728 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
2729 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. "Marijuana"
2730 does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered
2731 pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112,
2732 containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from
2733 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or
2734 federal law. "Marijuana" and "cannabis" are interchangeable and identical in meaning.

2735 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more
2736 active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a
2737 marijuana plant is a concentrate for purposes of this chapter.

2738 "Marijuana cultivation facility" means a facility licensed under this title to purchase marijuana
2739 plants and seeds from other marijuana cultivation facilities; to cultivate, label, and package retail
2740 marijuana; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities, to
2741 marijuana wholesalers, and to other marijuana cultivation facilities; and to sell marijuana plants and seeds
2742 to other marijuana cultivation facilities.

2743 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
2744 marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

2745 "Marijuana manufacturing facility" means a facility licensed under this title to purchase retail
2746 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; to
2747 manufacture, label, and package retail marijuana and retail marijuana products; to transfer possession of
2748 and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores,
2749 and other marijuana manufacturing facilities.

2750 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
2751 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,
2752 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
2753 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into
2754 the human body marijuana.

2755 "Marijuana products" means products that are composed of marijuana and other ingredients and
2756 are intended for use or consumption, ointments, and tinctures.

2757 "Marijuana testing facility" means a facility licensed under this title to develop, research, or test
2758 marijuana, marijuana products, and other substances.

2759 "Marijuana wholesaler" means a facility licensed under this title to purchase retail marijuana and
2760 retail marijuana products from a marijuana cultivation facility, a marijuana manufacturing facility, or
2761 another marijuana wholesaler; to transfer possession and sell or resell retail marijuana or retail marijuana
2762 products to a marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

2763 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
2764 marijuana establishment.

2765 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by
2766 a licensed marijuana establishment.

2767 "Place or premises" means the real estate, together with any buildings or other improvements
2768 thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale,
2769 or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any
2770 such building or other improvement actually and exclusively used as a private residence.

2771 "Retail marijuana" means the same as that term is defined in § 4.1-100.

2772 "Retail marijuana products" means the same as that term is defined in § 4.1-100.

2773 "Retail marijuana store" means a facility licensed under this title to purchase marijuana; to
2774 purchase retail marijuana and retail marijuana products from a marijuana manufacturing facility or
2775 marijuana wholesaler; to receive possession of retail marijuana and retail marijuana products from a
2776 marijuana cultivation facility, a marijuana wholesaler, or a marijuana manufacturing facility; and to sell
2777 retail marijuana and retail marijuana products to consumers.

2778 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other
2779 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or
2780 manufacturing.

2781 **§ 4.1-601. Cannabis Control Advisory Board.**

2782 A. The Chief Executive Officer of the Authority, in consultation with the Board, shall establish a
2783 Cannabis Control Advisory Board to assist the Authority in the development and operation of the statutory
2784 and regulatory programs governing the sale and use of cannabis. The Advisory Board shall consist of
2785 seven nonlegislative citizen members, to be appointed by the Governor, and one ex officio member.
2786 Members shall be representative of the various segments of the cannabis industry, and at least one shall
2787 be a medical professional as defined in § 38.2-602 with experience in appropriate public health duties,
2788 and at least one shall be a member of a historically disadvantaged community. Each member shall (i) have
2789 been a resident of the Commonwealth for a period of at least three years next preceding his appointment,
2790 and his continued residency shall be a condition of his tenure in office, and (ii) possess demonstrated
2791 experience or expertise in the regulation, manufacture, cultivation, or health effects of cannabis. Members
2792 shall be subject to a background check in accordance with § 4.1-101.03. The Director of Diversity, Equity,
2793 and Inclusion shall serve ex officio without voting privileges.

2794 B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a
2795 term of four years. The ex officio member shall serve a term coincident with his term in office. All
2796 members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for
2797 the unexpired term. No member shall be eligible to serve more than two consecutive terms; however, a
2798 member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Advisory

2799 Board may be removed from office by the Advisory Board for cause, including the improper use of its
2800 police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism,
2801 conflict of interests, failure to carry out the policies of the Commonwealth as established in the
2802 Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

2803 C. The Governor shall appoint the chairman and vice-chairman of the Advisory Board from among
2804 the membership of the Advisory Board. The Advisory Board may also form committees and advisory
2805 councils, which may include representatives who are not members of the Advisory Board, to undertake
2806 more extensive study and discussion of the issues before the Advisory Board. A majority of the Advisory
2807 Board shall constitute a quorum for the transaction of business, and no vacancy in the membership shall
2808 impair the right of a quorum to exercise the rights and perform all duties of the Advisory Board.

2809 D. Members of the Advisory Board shall receive no compensation for the performance of their
2810 duties, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of
2811 their duties as provided in §§ 2.2-2813 and 2.2-2825.

2812 E. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)
2813 shall apply to the members of the Advisory Board.

2814 **§ 4.1-601.1. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
2815 **meetings; compensation and expenses; duties.**

2816 A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an
2817 advisory council to the Advisory Board. The purpose of the Advisory Council is to assess and monitor
2818 public health issues, trends, and impacts related to marijuana and marijuana legalization, and make
2819 recommendations regarding health warnings, retail marijuana and retail marijuana products safety and
2820 product composition, and public health awareness, programming, and related resource needs.

2821 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14
2822 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members shall be
2823 appointed by the Governor, subject to confirmation by the General Assembly. Nonlegislative citizen
2824 members of the Council shall be citizens of the Commonwealth and shall include one representative from
2825 the Virginia Foundation for Healthy Youth, one representative from the Virginia Chapter of the American

2826 Academy of Pediatrics, one representative from the Medical Society of Virginia, one representative from
2827 the Virginia Pharmacist Association, one representative from a community services board, one person or
2828 health care provider with expertise in substance use disorder treatment and recovery, one person or health
2829 care provider with expertise in substance use disorder prevention, one person with experience in disability
2830 rights advocacy, one person with experience in veteran's healthcare, one person with a social or health
2831 equity background, one representative of a local health district, one person who is part of the cannabis
2832 industry, one academic researcher knowledgeable about cannabis, and one registered medical cannabis
2833 patient.

2834 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner
2835 of the Department of Behavioral Health and Developmental Services, the Commissioner of the
2836 Department of Agriculture and Consumer Services, the Director of the Department of Health Professions,
2837 the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia
2838 Alcoholic Beverage and Cannabis Control Authority, or their designees, shall serve ex officio with voting
2839 privileges. Ex officio members of the Advisory Council shall serve terms coincident with their terms of
2840 office.

2841 After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term
2842 of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
2843 terms. Vacancies shall be filled in the same manner as the original appointments. All members may be
2844 reappointed.

2845 The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his or
2846 her designee. The Advisory Council shall select a vice-chairman from among its membership. A majority
2847 of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year,
2848 and shall meet at the call of the chairman or whenever the majority of the members so request.

2849 The Advisory Council shall have the authority to create subgroups with additional stakeholders,
2850 experts, and state agency representatives.

2851 C. Members shall receive no compensation for the performance of their duties, but shall be
2852 reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as
2853 provided in §§ 2.2-2813 and 2.2-2825.

2854 D. The Advisory Council shall have the following duties, in addition to duties that may be
2855 necessary to fulfill its purpose as described in subsection A:

2856 1. To review multi-agency efforts to support collaboration and a unified approach on public health
2857 responses related to marijuana and marijuana legalization in the Commonwealth and to develop
2858 recommendations as necessary.

2859 2. To monitor changes in drug use data related to marijuana and marijuana legalization in the
2860 Commonwealth and the science and medical information relevant to the potential health risks associated
2861 with such drug use, and make appropriate recommendations to the Department of Health and the Advisory
2862 Board.

2863 3. Submit an annual report to the Governor and the General Assembly for publication as a report
2864 document as provided in the procedures of the Division of Legislative Automated Systems for the
2865 processing of legislative documents and reports. The chairman shall submit to the Governor and the
2866 General Assembly an annual executive summary of the interim activity and work of the Advisory Council
2867 no later than the first day of each regular session of the General Assembly. The executive summary shall
2868 be submitted as a report document as provided in the procedures of the Division of Legislative Automated
2869 Systems for the processing of legislative documents and reports and shall be posted on the General
2870 Assembly's website.

2871 **§ 4.1-602. Powers and duties of the Board.**

2872 In addition to the powers set forth in § 4.1-103, the Board shall have the following powers and
2873 duties:

2874 1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
2875 and § 4.1-603;

2876 2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

- 2877 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, sale, and testing of
2878 marijuana and marijuana products as provided by law;
- 2879 4. Determine the nature, form, and capacity of all containers used for holding marijuana products
2880 to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;
- 2881 5. Maintain actions to enjoin common nuisances as defined in § 4.1-657;
- 2882 6. Establish standards for and implement an online course for employees of retail marijuana stores
2883 that trains employees on how to educate consumers on the potential risks of marijuana use;
- 2884 7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or
2885 similar document regarding the potential risks of marijuana use to be prominently displayed and made
2886 available to consumers;
- 2887 8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business
2888 Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on
2889 matters related to diversity, equity, and inclusion standards in the marijuana industry;
- 2890 9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop
2891 requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish
2892 to possess more than one license, and an approval process for and requirements for implementation of
2893 such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-
2894 owned, and minority-owned businesses and veteran-owned businesses interested in participating in the
2895 marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii)
2896 provide assistance with business planning for potential marijuana establishment licensees; (iv) spread
2897 awareness of business opportunities related to the marijuana marketplace in areas disproportionately
2898 impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the
2899 administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach
2900 initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;
- 2901 10. Establish a position for an individual with professional experience in a health related field who
2902 shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-601.1, liaise with

2903 the Office of the Secretary of Health and Human Resources and relevant health and human services
2904 agencies and organizations, and perform other duties as needed.

2905 11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and
2906 the Director of the Office of Diversity, Equity, and Inclusion to promote and encourage participation in
2907 the marijuana industry by people from communities that have been disproportionately impacted by
2908 marijuana prohibition and enforcement and to positively impact those communities; and

2909 12. Do all acts necessary or advisable to carry out the purposes of this chapter.

2910 **§ 4.1-603. Regulations of the Board.**

2911 A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general
2912 laws of the Commonwealth, that it deems necessary to carry out the provisions of this chapter and to
2913 prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The
2914 Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed
2915 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

2916 B. The Board shall promulgate regulations that:

2917 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee,
2918 including security requirements to include lighting, physical security, and alarm requirements, provided
2919 that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2920 2. Establish requirements for securely transporting marijuana between marijuana establishments;

2921 3. Establish sanitary standards for retail marijuana product preparation;

2922 4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Article
2923 9 (§ 4.1-686 et seq.);

2924 5. Establish an application process for licensure as a marijuana establishment pursuant to this title
2925 in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

2926 6. Establish requirements for health and safety warning labels to be placed on retail marijuana and
2927 retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the
2928 provisions of this chapter;

2929 7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not
2930 exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent
2931 amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and
2932 where practicable an equivalent amount for other marijuana products. Such regulations may include other
2933 product and dispensing limitations on tetrahydrocannabinol;

2934 8. Establish requirements for the form, content, and retention of all records and accounts by all
2935 licensees;

2936 9. Provide alternative methods for licensees to maintain and store business records that are subject
2937 to Board inspection, including methods for Board-approved electronic and offsite storage;

2938 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
2939 stores in the community and (ii) metrics that have similarly shown an association with negative
2940 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
2941 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-601.1;

2942 11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing
2943 officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee
2944 at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

2945 12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant
2946 to subsection C of § 4.1-636;

2947 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
2948 marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such
2949 advertising does not encourage or otherwise promote the consumption of retail marijuana or retail
2950 marijuana products by persons to whom retail marijuana or retail marijuana products may not be lawfully
2951 sold. Such regulations shall be promulgated in accordance with § 4.1-690;

2952 14. Establish criteria by which to evaluate social equity license applicants, which shall be an
2953 applicant who has lived for at least 12 months in the Commonwealth and is either (i) an applicant with at
2954 least 66 percent ownership by a person or persons who has been convicted of or adjudicated delinquent
2955 for any marijuana offenses that are eligible for expungement pursuant to § 19.2-392.2 or 19.2-392.2:1; (ii)

2956 an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or
2957 spouse of a person who have been convicted of or adjudicated delinquent for any marijuana offenses that
2958 are eligible for expungement under § 19.2-392.2 or 19.2-392.2:1; (iii) an applicant with at least 66 percent
2959 ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction
2960 that is determined by the Board after utilizing census tract data made available by the United States
2961 Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at
2962 least 66 percent ownership by a person or persons who have resided for at least three of the last five years
2963 in a jurisdiction determined by the Board as economically distressed; or (v) for applicants with a minimum
2964 of 10 full-time employees, an applicant with at least 66 percent of current employees who (a) meet the
2965 qualifications in clauses (i), (ii), or (iii) and (b) collectively own at least a 25 percent interest in the
2966 business;

2967 15. For the purposes of establishing criteria by which to evaluate social equity license applicants,
2968 establish standards by which to determine (i) which jurisdictions have been disproportionately policed for
2969 marijuana crimes and (ii) which jurisdictions are economically distressed; and

2970 16. Establish standards and requirements for (i) any preference in the licensing process for
2971 qualified social equity applicants, (ii) what percentage of application or license fees are waived for a
2972 qualified social equity applicant, and (iii) a low-interest business loan program for qualified social equity
2973 applicants.

2974 C. The Board may promulgate regulations that:

2975 1. Limit the number of licenses issued by type or class to operate a marijuana establishment;
2976 however, the Board shall not limit the number of Class B marijuana cultivation facility licenses issued.

2977 2. Provide for the issuance of additional classes of state license to a marijuana establishment.

2978 3. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-637
2979 and 4.1-638, including method of filing a return, information required on a return, and form of payment.

2980 D. Board regulations shall be uniform in their application, except those relating to hours of sale
2981 for licensees.

2982 E. Courts shall take judicial notice of Board regulations.

2983 F. The Board's power to regulate shall be broadly construed.

2984 **§ 4.1-604. Seed-to-sale tracking system.**

2985 To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana
2986 establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and
2987 maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant
2988 stage until the retail marijuana or retail marijuana product is sold to a consumer at a retail marijuana store.

2989 **§ 4.1-605. Reports and accounting systems of Board; auditing books and records.**

2990 The Board shall make reports to the Governor as he may require covering the administration and
2991 enforcement of this chapter. Additionally, the Board shall submit an annual report to the Governor, the
2992 General Assembly, the Chief Executive Officer, and the Advisory Board on or before December 15 each
2993 year, which shall contain:

2994 1. The number of state licenses of each category issued pursuant to this chapter;

2995 2. Demographic information concerning the licensees;

2996 3. A description of enforcement and disciplinary actions taken against licensees;

2997 4. A statement of revenues and expenses related to the implementation, administration, and
2998 enforcement of this chapter;

2999 5. General information and remarks about the working of the cannabis control laws within the
3000 Commonwealth;

3001 6. A description of the efforts undertaken by the Board to promote diverse business ownership
3002 within the cannabis industry; and

3003 7. Any other information requested by the Governor.

3004 **§ 4.1-606. Certain information not to be made public.**

3005 Neither the Board nor its employees shall divulge any information regarding (i) financial reports
3006 or records required pursuant to this chapter; (ii) the purchase orders and invoices for retail marijuana or
3007 retail marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from,
3008 refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system
3009 maintained by the Board pursuant to § 4.1-604. The provisions of § 58.1-3 shall apply, mutatis mutandis.

3010 to taxes collected pursuant to this chapter and to purchase orders and invoices for retail marijuana or retail
3011 marijuana products filed with the Board by marijuana wholesaler licensees.

3012 Nothing contained in this section shall prohibit the use or release of such information or documents
3013 by the Board to any governmental or law-enforcement agency, or when considering the granting, denial,
3014 revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or
3015 permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to
3016 any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such
3017 information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of
3018 retail marijuana or retail marijuana products sales in the Commonwealth by marijuana wholesaler
3019 licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that
3020 such information does not identify the licensee.

3021 **§ 4.1-607. Disposition of moneys collected by the Board.**

3022 A. All moneys collected by the Board under this chapter shall be paid into the state treasury
3023 according to the provisions of § 4.1-116.

3024 B. Except for revenues collected from any local marijuana tax imposed under § 4.1-638, which
3025 shall be separately accounted for as provided in subsection D, the net profits of the Board from its activities
3026 under this chapter shall be calculated according to the provisions of § 4.1-116. As provided in § 4.1-116,
3027 any moneys paid into the state treasury pursuant to subsection A that are not net profits shall be set aside
3028 in the Enterprise Fund created under § 4.1-116.

3029 C. After accounting for the authority's expenses as provided in subsection A of § 4.1-116, net
3030 profits attributable to the Board's activities under this chapter shall be appropriated in the general
3031 appropriation act as follows:

- 3032 1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
3033 2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.4;
3034 3. Twenty-five percent to substance use disorder prevention and treatment programs; and
3035 4. Five percent to public health programs.

3036 D. All local tax revenues collected under § 4.1-638 shall be paid into the state treasury as provided
3037 in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under
3038 the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the
3039 locality in which they were collected. If revenues were collected from a marijuana establishment located
3040 in more than one locality by reason of the boundary line or lines passing through the marijuana
3041 establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide
3042 to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to
3043 which tax revenues are attributable.

3044 On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the
3045 proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall
3046 be charged to the account of each such locality under the special fund created by this section. If errors are
3047 made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to
3048 taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for
3049 the next quarter.

3050 **§ 4.1-608. Local referendum to prevent establishment of retail marijuana stores.**

3051 A. The governing body of any county, city, or town having a population of 1,000 or more may by
3052 ordinance prohibit the operation of retail marijuana stores within the boundaries of the county, city, or
3053 town.

3054 B. As an alternative to subsection A, a petition signed by qualified voters equal in number to at
3055 least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least
3056 100 qualified voters, whichever is greater, may be filed with the circuit court of the county or city, or of
3057 the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the
3058 question of whether the operation of retail marijuana stores shall be prohibited within that jurisdiction.
3059 Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the
3060 date fixed in the order, to conduct a referendum on the question. The court order shall set the date for the
3061 referendum in conformity with the requirements of § 24.2-682, but in no event shall such date be more
3062 than 90 days from the date the order is issued. The clerk of the circuit court shall publish notice of the

3063 referendum in a newspaper of general circulation in the county, city, or town once a week for three
3064 consecutive weeks prior to the referendum.

3065 The question on the ballot shall be:

3066 "Shall the operation of retail marijuana stores be prohibited in _____ (name of county, city,
3067 or town)?"

3068 The referendum shall be ordered and held and the results certified as provided in § 24.2-684.
3069 Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to
3070 the Board and to the governing body of the county, city, or town.

3071 C. Once a referendum has been held, no other referendum on the same question shall be held in
3072 the county, city, or town within four years of the date of the prior referendum. However, a town shall not
3073 be proscribed from holding a referendum within such period although an election has been held in the
3074 county in which the town or a part thereof is located less than four years prior thereto.

3075 **§ 4.1-609. Effect of local option referenda.**

3076 A. If in any referendum held under the provisions of § 4.1-608 in any county, city, or town a
3077 majority of the qualified voters vote "Yes" on the question, then on and after the date of the order of the
3078 court setting forth the results of such referendum was entered of record, retail marijuana stores shall be
3079 prohibited in such county, city, or town.

3080 B. If in any such referendum held in any county, city, or town in which a majority of the qualified
3081 voters have previously voted to prohibit the operation of retail marijuana stores and in a subsequent
3082 election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-608,
3083 then such retail marijuana stores shall, in accordance with this chapter, be allowed within the county, city,
3084 or town on and after 60 days from the day on which the order of the court setting forth the results of such
3085 election is entered of record.

3086 C. For the purpose of this section, when any referendum is held in any town, separate and apart
3087 from the county in which such town or a part thereof is located, such town shall be treated as being separate
3088 and apart from such county.

3089 **§ 4.1-610. Contests of local option referenda.**

3090 The regularity or legality of any referendum held pursuant to § 4.1-608 shall be subject to the
3091 inquiry, determination, and judgment of the circuit court that ordered the referendum. The court shall
3092 proceed upon the complaint of 15 or more qualified voters of the county, city, or town, filed within 30
3093 days after the date the results of the referendum are certified and setting out fully the grounds of contest.
3094 The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654,
3095 and the judgment of the court entered of record shall be a final determination of the regularity and legality
3096 of the referendum.

3097 **§ 4.1-611. Local ordinances or resolutions regulating retail marijuana or retail marijuana**
3098 **products.**

3099 A. No county, city, or town shall, except as provided in § 4.1-612, adopt any ordinance or
3100 resolution that regulates or prohibits the cultivation, manufacture, possession, sale, wholesale distribution,
3101 handling, transportation, consumption, use, advertising, or dispensing of retail marijuana or retail
3102 marijuana products in the Commonwealth.

3103 B. However, the governing body of any county, city, or town may adopt an ordinance (i) that
3104 prohibits the acts described in § 4.1-652, or the acts described in § 4.1-653, and may provide a penalty for
3105 violation thereof and (ii) that regulates or prohibits the possession of opened retail marijuana or retail
3106 marijuana products containers in its local public parks, playgrounds, public streets, and any sidewalk
3107 adjoining any public street.

3108 C. Nothing in this chapter shall be construed to supersede or limit the authority of a locality to
3109 adopt and enforce local ordinances to regulate businesses licensed pursuant to this chapter, including local
3110 zoning and land use requirements and business license requirements.

3111 D. Except as provided in this section, all local acts, including charter provisions and ordinances of
3112 counties, cities, and towns, inconsistent with any of the provisions of this chapter, are repealed to the
3113 extent of such inconsistency.

3114 **§ 4.1-612. Local ordinance regulating time of sale of retail marijuana and retail marijuana**
3115 **products.**

3116 The governing body of each county may adopt ordinances effective in that portion of such county
3117 not embraced within the corporate limits of any incorporated town, and the governing body of each city
3118 and town may adopt ordinances effective in such city or town, fixing hours during which retail marijuana
3119 and retail marijuana products may be sold. Such governing bodies shall provide for fines and other
3120 penalties for violations of any such ordinances, which shall be enforced as if the violations were Class 1
3121 misdemeanors with a right of appeal pursuant to § 16.1-106.

3122 A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the
3123 governing body adopting it and transmitted to the Board.

3124 On and after the effective date of any ordinance adopted pursuant to this section, no retail
3125 marijuana store shall sell retail marijuana and retail marijuana products during the hours limited by the
3126 ordinance.

3127 Article 2.

3128 Administration of Retail Marijuana Licenses; General Provisions.

3129 **§ 4.1-613. Exemptions from licensure.**

3130 The licensure requirements of this article shall not apply to (i) a cannabis dispensing facility or
3131 pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2
3132 (§ 54.1-3442.5 et seq.) of the Drug Control Act; (ii) a dealer, grower, or processor of industrial hemp
3133 registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-
3134 4112 et seq.) of Title 3.2; (iii) a manufacturer of an industrial hemp extract or food containing an industrial
3135 hemp extract operating in accordance with Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or
3136 (iv) a person who cultivates marijuana at home for personal use pursuant to § 4.1-645. Nothing in this
3137 chapter shall be construed to (a) prevent any person described in clause (i), (ii), or (iii) from obtaining a
3138 license pursuant to this chapter, provided such person satisfies applicable licensing requirements or (b)
3139 prevent a cultivation, manufacturing, wholesale, or retail licensee from operating on the licensed premises
3140 a pharmaceutical processing facility in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug
3141 Control Act.

3142 **§ 4.1-614. To whom privileges conferred by licenses extend; liability for violations of law.**

3143 The privilege of any licensee to cultivate, manufacture, transport, sell, or test retail marijuana or
3144 retail marijuana products shall extend to such licensee and to all agents or employees of such licensee for
3145 the purpose of operating under such license. The licensee may be held liable for any violation of this
3146 chapter or any Board regulation committed by such agents or employees in connection with their
3147 employment.

3148 **§ 4.1-615. Separate license for each place of business; transfer or amendment; posting;**
3149 **expiration.**

3150 A. Each license granted by the Board shall designate the place where the business of the licensee
3151 will be carried on. A separate license shall be required for each separate place of business.

3152 B. No license shall be transferable from one person to another or from one location to another. The
3153 Board may permit a licensee to amend the classification of an existing license without complying with the
3154 posting and publishing procedures required by § 4.1-634 if the effect of the amendment is to reduce
3155 materially the privileges of an existing license. However, if (i) the Board determines that the amendment
3156 is a device to evade the provisions of this article, (ii) a majority of the corporate stock of a retail marijuana
3157 store licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail
3158 marijuana store licensee, the Board may, within 30 days of receipt of written notice by the licensee of a
3159 change in ownership or a change of business, require the licensee to comply with any or all of the
3160 requirements of § 4.1-634. If the Board fails to exercise its authority within the 30-day period, the licensee
3161 shall not be required to reapply for a license. The licensee shall submit such written notice to the secretary
3162 of the Board.

3163 C. Each license shall be posted in a location conspicuous to the public at the place where the
3164 licensee carries on the business for which the license is granted.

3165 D. The privileges conferred by any license granted by the Board shall continue until the last day
3166 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except
3167 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to
3168 grant a license or by operation of law, voluntary surrender, or order of the Board.

3169 The Board may grant licenses for one year or for multiple years, not to exceed three years, based
3170 on the fees set by the Board pursuant to § 4.1-635. Qualification for a multiyear license shall be determined
3171 on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except
3172 as provided in § 4.1-636. The Board may provide a discount for two-year or three-year licenses, not to
3173 exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered
3174 or rescinded during such period.

3175 The Board may permit a licensee who fails to pay:

3176 1. The required license fee covering the continuation or reissuance of his license by midnight of
3177 the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable,
3178 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made
3179 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee,
3180 whichever is greater; and

3181 2. The fee and civil penalty pursuant to subdivision 1 to pay the fee in lieu of posting and publishing
3182 notice and reapplying, provided payment of the fee is made within 45 days following the 30 days specified
3183 in subdivision 1 and is accompanied by a civil penalty of \$100 or 25 percent of such fee, whichever is
3184 greater.

3185 Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-607.

3186 **§ 4.1-616. Records of licensees; inspection of records and places of business.**

3187 A. Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep complete,
3188 accurate, and separate records in accordance with Board regulations of all marijuana and marijuana
3189 products it purchased, manufactured, sold, or shipped.

3190 B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in
3191 accordance with Board regulations of all purchases of retail marijuana products, the prices charged such
3192 licensee therefor, and the names and addresses of the persons from whom purchased. Every licensed retail
3193 marijuana store shall also preserve all invoices showing its purchases for a period as specified by Board
3194 regulations. The licensee shall also keep an accurate account of daily sales, showing quantities of retail
3195 marijuana products sold and the total price charged by it therefor. Except as otherwise provided in

3196 subsections D and E, such account need not give the names or addresses of the purchasers thereof, except
3197 as may be required by Board regulation.

3198 Notwithstanding the provisions of subsection F, electronic records of licensed retail marijuana
3199 stores may be stored off site, provided that such records are readily retrievable and available for electronic
3200 inspection by the Board or its special agents at the licensed premises. However, in the case that such
3201 electronic records are not readily available for electronic inspection on the licensed premises, the licensee
3202 may obtain Board approval, for good cause shown, to permit the licensee to provide the records to a special
3203 agent of the Board within three business days or less, as determined by the Board, after a request is made
3204 to inspect the records.

3205 C. Every licensed marijuana cultivation facility shall keep complete, accurate, and separate records
3206 in accordance with Board regulations of all marijuana and marijuana products it purchased, manufactured,
3207 sold, or shipped.

3208 D. Every licensed marijuana testing facility shall keep complete, accurate, and separate records in
3209 accordance with Board regulations of all marijuana and marijuana products it developed, researched, or
3210 tested and the names and addresses of the licensees or persons who submitted the marijuana or marijuana
3211 product to the marijuana testing facility.

3212 E. The Board and its special agents shall be allowed free access during reasonable hours to every
3213 place in the Commonwealth and to the premises of every licensee or for the purpose of examining and
3214 inspecting such place and all records, invoices, and accounts therein.

3215 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
3216 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
3217 open to the public substantially during the same hours, "reasonable hours" means the business hours when
3218 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
3219 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
3220 24 hours after a request is made to inspect the records.

3221 Article 3.

3222 Administration of Retail Marijuana Licenses; Licenses Granted by Board.

3223 **§ 4.1-617. Marijuana cultivation facility license.**

3224 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall
3225 authorize the licensee to purchase marijuana plants and seeds from other marijuana cultivation facilities;
3226 to cultivate, label, and package retail marijuana on premises approved by the Board; to transfer possession
3227 of and to sell retail marijuana to marijuana manufacturing facilities, marijuana wholesalers, and other
3228 marijuana cultivation facilities:

3229 1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than
3230 a certain number of marijuana plants or marijuana plants in an area not larger than a certain number of
3231 square feet, as determined by the Board;

3232 2. Class B cultivation facility license, which shall authorize the licensee to cultivate marijuana
3233 plants with a tetrahydrocannabinol concentration of no more than one percent, as determined post-
3234 decarboxylation.

3235 B. In accordance with the requirements of § 4.1-604, a marijuana cultivation facility licensee shall
3236 track the retail marijuana it cultivates from seed or immature marijuana plant to the point at which the
3237 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a marijuana
3238 manufacturing facility, a marijuana testing facility, a marijuana wholesaler, or another marijuana
3239 cultivation facility, or is disposed of or destroyed.

3240 **§ 4.1-618. Marijuana manufacturing facility license.**

3241 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the
3242 licensee to purchase retail marijuana from a marijuana cultivation facility, a marijuana wholesaler, or
3243 another marijuana manufacturing facility; to manufacture, label, and package retail marijuana and retail
3244 marijuana products on premises approved by the Board; to transfer possession and sell retail marijuana
3245 and retail marijuana products to marijuana wholesalers, retail marijuana stores, and other marijuana
3246 manufacturing facilities.

3247 B. Except as otherwise provided in this chapter, retail marijuana products shall be prepared on a
3248 licensed premises that is used exclusively for the manufacture and preparation of retail marijuana or retail

3249 marijuana products and using equipment that is used exclusively for the manufacture and preparation of
3250 retail marijuana or retail marijuana products.

3251 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail
3252 marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in
3253 regulations adopted by the Board. A marijuana manufacturing facility that manufactures an edible
3254 marijuana product shall comply with the requirements of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 and
3255 any regulations adopted pursuant thereto.

3256 D. In accordance with the requirements of § 4.1-604, a marijuana manufacturing facility licensee
3257 shall track the retail marijuana it uses in its manufacturing processes from the point the retail marijuana is
3258 delivered or transferred to the marijuana manufacturing facility by a marijuana cultivation facility to the
3259 point the retail marijuana or retail marijuana products produced using the retail marijuana are delivered or
3260 transferred to another marijuana manufacturing facility, a marijuana testing facility, a marijuana
3261 wholesaler, or a retail marijuana store, or are disposed of or destroyed.

3262 **§ 4.1-619. Marijuana testing facility license.**

3263 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to
3264 develop, research, or test retail marijuana, retail marijuana products, and other substances.

3265 B. A marijuana testing facility may develop, research, or test retail marijuana and retail marijuana
3266 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the retail marijuana
3267 or retail marijuana product for personal use as authorized under § 4.1-644.

3268 C. Neither this title nor the regulations adopted pursuant to this title shall prevent a marijuana
3269 testing facility from developing, researching, or testing substances that are not marijuana or marijuana
3270 products for that facility or for another person.

3271 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
3272 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
3273 Standardization by a third-party accrediting body.

3274 E. In accordance with the requirements of § 4.1-604, a marijuana testing facility licensee shall
3275 track all marijuana and marijuana products it receives from a licensee for testing purposes from the point

3276 at which the marijuana or marijuana products are delivered or transferred to the marijuana testing facility
3277 to the point at which the marijuana or marijuana products are disposed of or destroyed.

3278 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
3279 a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility, a licensed marijuana
3280 wholesaler, or a licensed retail marijuana store.

3281 **§ 4.1-620. Marijuana wholesaler license.**

3282 A. The Board may issue marijuana wholesaler licenses, which shall authorize the licensee to
3283 purchase retail marijuana and retail marijuana products from a marijuana cultivation facility, a marijuana
3284 manufacturing facility, or another marijuana wholesaler; to transfer possession and sell or resell retail
3285 marijuana or retail marijuana products to a marijuana manufacturing facility, a retail marijuana store, or
3286 another marijuana wholesaler.

3287 B. All areas within the licensed premises of a marijuana wholesaler in which retail marijuana and
3288 retail marijuana products are stored shall meet all sanitary standards specified in regulations adopted by
3289 the Board.

3290 C. In accordance with the requirements of § 4.1-604, a marijuana wholesaler licensee shall track
3291 the retail marijuana and retail marijuana products from the point at which the retail marijuana or retail
3292 marijuana products are delivered or transferred to the retail marijuana store by a marijuana cultivation
3293 facility, a marijuana manufacturing facility, or another marijuana wholesaler to the point at which the
3294 retail marijuana or retail marijuana products are sold to a retail marijuana store, delivered or transferred
3295 to a marijuana testing facility, or disposed of or destroyed.

3296 **§ 4.1-621. Retail marijuana store license.**

3297 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to
3298 purchase retail marijuana from a marijuana cultivation facility; to purchase retail marijuana and retail
3299 marijuana products from a marijuana wholesaler or marijuana manufacturing facility; to receive
3300 possession and sell retail marijuana and retail marijuana products to consumers on premises approved by
3301 the Board.

3302 B. Retail marijuana stores shall be operated in accordance with the following provisions:

- 3303 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.
- 3304 2. A retail marijuana store shall be permitted to sell retail marijuana and retail marijuana products
3305 to consumers only in a direct, face-to-face exchange. Such store shall not be permitted to sell marijuana
3306 or marijuana products using:
- 3307 a. An automated dispensing or vending machine;
- 3308 b. A drive-through sales window;
- 3309 c. An Internet-based sales platform; or
- 3310 d. A delivery service.
- 3311 3. A retail marijuana store shall not be permitted to sell more than one ounce of marijuana or an
3312 equivalent amount of marijuana product as determined by regulation promulgated by the Board during a
3313 single transaction to one person;
- 3314 4. A retail marijuana store may sell any other consumable or nonconsumable products that it is
3315 otherwise permitted by law to sell, excluding tobacco or alcohol.
- 3316 5. A retail marijuana store shall not:
- 3317 a. Give away any retail marijuana or retail marijuana products;
- 3318 b. Sell retail marijuana or retail marijuana products to any person when at the time of such sale he
3319 knows or has reason to believe that the person attempting to purchase the retail marijuana or retail
3320 marijuana product is intoxicated or is attempting to purchase retail marijuana for someone younger than
3321 21 years of age; or
- 3322 c. Employ or allow to volunteer any person younger than 21 years of age.
- 3323 6. In accordance with the requirements of § 4.1-604, a retail marijuana store licensee shall track
3324 all retail marijuana and retail marijuana products from the point at which the retail marijuana or retail
3325 marijuana products are delivered or transferred to the retail marijuana store by a marijuana cultivation
3326 facility, a marijuana manufacturing facility, or a marijuana wholesaler to the point at which the retail
3327 marijuana or retail marijuana products are sold to a consumer, delivered or transferred to a marijuana
3328 testing facility, or disposed of or destroyed.

3329 7. A retail marijuana store shall not be subject to the requirements of Chapter 51 (§ 3.2-5100 et
3330 seq.) of Title 3.2.

3331 C. Each retail marijuana store licensee shall post in each retail marijuana store notice of the
3332 existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the
3333 availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be
3334 posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in
3335 subsection C of § 40.1-11.3.

3336 D. Each retail marijuana store licensee shall prominently display and make available for
3337 dissemination to consumers Board-approved information regarding the potential risks of marijuana use.

3338 E. Each retail marijuana store licensee shall provide training, established by the Board, to all
3339 employees educating them on how to discuss the potential risks of marijuana use with consumers.

3340 **§ 4.1-622. Multiple licenses awarded to one person permitted; exceptions.**

3341 A. As used in this section, "interest" means an equity ownership interest or a partial equity
3342 ownership interest or any other type of financial interest, including but not limited to being an investor or
3343 servicing in a management position.

3344 B. A person shall be permitted to possess one or any combination of the following licenses:
3345 marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler
3346 license, or retail marijuana store license. However, no licensee who has been issued either a marijuana
3347 cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or
3348 retail marijuana store license shall be issued a marijuana testing facility license or have any interest in a
3349 marijuana testing facility licensee. Additionally, no licensee who has been issued a marijuana testing
3350 facility license shall be issued a marijuana cultivation facility license, marijuana manufacturing facility
3351 license, marijuana wholesaler license, or retail marijuana store license or have any interest in a marijuana
3352 cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler licensee, or
3353 retail marijuana store licensee.

3354 C. Additionally, no person shall be permitted to have any interest in more than five marijuana
3355 cultivation facility licensees. However, the Board may approve an application from a person who holds

3356 an interest in more than five marijuana cultivation facility licensees if, after January 1, 2024, the Board
3357 adopts a regulation authorizing a person to hold an interest in more than five marijuana cultivation facility
3358 licensees.

3359 D. Any person who wishes to possess a license in more than one license category pursuant to
3360 subsection B shall pay a \$750,000 fee to the Board. The Board shall allocate such fees to the following:
3361 (i) the Virginia Cannabis Equity Loan Fund, (ii) the Virginia Cannabis Equity Reinvestment Fund, or (iii)
3362 a program, as determined by the Board, that provides job training services to persons recently incarcerated.
3363 The Board may, in its discretion, waive or reduce such fee for qualified social equity applicants who wish
3364 to possess a license in more than one license category.

3365 In addition, any licensee who wishes to possess more than one license pursuant to subsection B
3366 shall submit a diversity, equity, and inclusion plan to the Cannabis Business Equity and Diversity Support
3367 Team (the Support Team) for approval, and upon approval shall implement such plan in accordance with
3368 the requirements set by the Support Team.

3369 **§ 4.1-623. Temporary permits required in certain instances.**

3370 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
3371 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and
3372 who has become lawfully entitled to the possession of the licensed premises to continue to operate the
3373 marijuana establishment to the same extent as a person holding such licenses for a period not to exceed
3374 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall
3375 confer the privileges of any licenses held by the previous owner to the extent determined by the Board.
3376 Such temporary permit may be issued in advance, conditioned on the requirements in this subsection.

3377 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board
3378 for any cause set forth in § 4.1-629 without complying with subsection A of § 4.1-632. Revocation of a
3379 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the
3380 expiration of three business days after the order of the revocation has been mailed to the permittee at either
3381 his residence or the address given for the business in the permit application. No further notice shall be
3382 required.

3383 **§ 4.1-624. Licensee shall maintain possession of premises.**

3384 As a condition of licensure, a licensee shall at all times maintain possession of the licensed
3385 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a
3386 lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of
3387 the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
3388 revoked by the Board.

3389 **§ 4.1-625. Use or consumption of marijuana or marijuana products on premises of licensee**
3390 **by licensee, agent, or employee.**

3391 No marijuana or marijuana products may be used or consumed on the premises of a licensee by
3392 the licensee or any agent or employee of the licensee, except for certain sampling for quality control
3393 purposes that may be permitted by Board regulation.

3394 **§ 4.1-626. Conditions under which the Board may refuse to grant licenses.**

3395 The Board may refuse to grant any license if it has reasonable cause to believe that:

3396 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
3397 is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
3398 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
3399 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
3400 percent or more of the membership interest of the limited liability company:

3401 a. Is not 21 years of age or older;

3402 b. Is not a resident of the Commonwealth;

3403 c. Has been convicted in any court of any crime or offense involving moral turpitude under the
3404 laws of any state or of the United States, within seven years of the date of the application or has not
3405 completed all terms of sentencing and probation resulting from any such felony conviction;

3406 d. Knowingly employs someone younger than 21 years of age;

3407 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
3408 ownership interests in the business that have not been disclosed;

- 3409 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
3410 proposed to be licensed;
- 3411 g. Has misrepresented a material fact in applying to the Board for a license;
- 3412 h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
3413 governmental agency or authority, by making or filing any report, document, or tax return required by
3414 statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully
3415 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
3416 agency or authority, by making or maintaining business records required by statute or regulation that are
3417 false or fraudulent;
- 3418 i. Is violating or allowing the violation of any provision of this chapter in his establishment at the
3419 time his application for a license is pending;
- 3420 j. Is a police officer with police authority in the political subdivision within which the
3421 establishment designated in the application is located;
- 3422 k. Is a manufacturer, distributor, or retailer of alcoholic beverages licensed under Chapter 2 (§ 4.1-
3423 200 et seq.) of Title 4.1 or a retailer of tobacco or tobacco products; or
- 3424 l. Is physically unable to carry on the business for which the application for a license is filed or has
3425 been adjudicated incapacitated.
- 3426 2. The place to be occupied by the applicant:
- 3427 a. Does not conform to the requirements of the governing body of the county, city, or town in
3428 which such place is located with respect to sanitation, health, construction, or equipment, or to any similar
3429 requirements established by the laws of the Commonwealth or by Board regulation;
- 3430 b. Is so located that granting a license and operation thereunder by the applicant would result in
3431 violations of this chapter or Board regulations or violation of the laws of the Commonwealth or local
3432 ordinances relating to peace and good order;
- 3433 c. Is so located with respect to any place of religious worship; hospital; public, private, or parochial
3434 school or institution of higher education; public or private playground or other similar recreational facility;
3435 substance use disorder treatment facility; or federal, state, or local government-operated facility that the

3436 operation of such place under such license will adversely affect or interfere with the normal, orderly
3437 conduct of the affairs of such facilities or institutions;

3438 d. Is so located with respect to any residence or residential area that the operation of such place
3439 under such license will adversely affect real property values or substantially interfere with the usual
3440 quietude and tranquility of such residence or residential area;

3441 e. Is located within 1,000 feet of an existing retail marijuana store; or

3442 f. Under a retail marijuana store license, is so constructed, arranged, or illuminated that law-
3443 enforcement officers and special agents of the Board are prevented from ready access to and reasonable
3444 observation of any room or area within which retail marijuana or retail marijuana products are to be sold.

3445 Nothing in this subdivision 2 shall be construed to require an applicant to have secured a place or
3446 premises until the final stage of the license approval process.

3447 3. The number of licenses existing in the locality is such that the granting of a license is detrimental
3448 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
3449 consider the (i) criteria established by the Board to evaluate new licensees based on the density of retail
3450 marijuana stores in the community; (ii) character of, population of, number of similar licenses, and number
3451 of all licenses existent in the particular county, city, or town and the immediate neighborhood concerned;
3452 (iii) effect that a new license may have on such county, city, town, or neighborhood in conforming with
3453 the purposes of this chapter; and (iv) objections, if any, that may have been filed by a local governing
3454 body or local residents.

3455 4. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
3456 political subdivision thereof that warrants refusal by the Board to grant any license.

3457 5. The Board is not authorized under this title to grant such license.

3458 **§ 4.1-627. Conditions under which the Board shall refuse to grant licenses.**

3459 The Board shall refuse to grant any license to any member or employee of the Board or to any
3460 corporation or other business entity in which such member or employee is a stockholder or has any other
3461 economic interest.

3462 Whenever any other elected or appointed official of the Commonwealth or any political
3463 subdivision thereof applies for such a license or continuance thereof, he shall state on the application the
3464 official position he holds, and whenever a corporation or other business entity in which any such official
3465 is a stockholder or has any other economic interest applies for such a license, it shall state on the
3466 application the full economic interests of each such official in such corporation or other business entity.

3467 **§ 4.1-628. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
3468 **exceptions.**

3469 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
3470 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
3471 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by
3472 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
3473 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
3474 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
3475 Neither mandamus nor injunction shall lie in any such case.

3476 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
3477 license, provided that such:

3478 1. License for the applicant has been refused or revoked within a period of 12 months;
3479 2. License for any premises has been refused or revoked at that location within a period of 12
3480 months; or

3481 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted
3482 by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there
3483 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
3484 alleging a violation of this chapter.

3485 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time
3486 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
3487 the Board may refuse a hearing on an application for a new license until after the date on which the
3488 suspension period would have been executed had the license not have been permitted to expire.

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Article 4.

Administration of Retail Marijuana Licenses; Suspension and Revocation.

§ 4.1-629. Grounds for which Board may suspend or revoke licenses.

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

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:
 - a. Has misrepresented a material fact in applying to the Board for such license;
 - b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-632, has (i) violated any provision of Article 6 (§ 4.1-644 et seq.), Article 7 (§ 4.1-665 et seq.), or Article 8 (§ 4.1-673 et seq.); (ii) committed a violation of this chapter in bad faith; (iii) violated or failed to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;
 - c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;
 - d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business that have not been disclosed;
 - e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;
 - f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;
 - g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

3515 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
3516 such licensed premises;

3517 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
3518 product except as provided under this title;

3519 j. Is physically unable to carry on the business conducted under such license or has been
3520 adjudicated incapacitated;

3521 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

3522 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
3523 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
3524 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
3525 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
3526 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
3527 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
3528 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
3529 any conduct related to the operation of the licensed business that facilitates the commission of any of the
3530 offenses set forth herein;

3531 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
3532 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
3533 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
3534 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
3535 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et
3536 seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.)
3537 of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title
3538 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2
3539 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
3540 threat to the public safety;

3541 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
3542 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
3543 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
3544 of public property immediately adjacent to the licensed premises; or

3545 o. Has been sanctioned by the Board of Pharmacy pursuant to § 54.1-3316 and regulations
3546 promulgated by the Board of Pharmacy for a violation pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of
3547 the Drug Control Act.

3548 2. The place occupied by the licensee:

3549 a. Does not conform to the requirements of the governing body of the county, city, or town in
3550 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
3551 any similar requirements established by the laws of the Commonwealth or by Board regulations;

3552 b. Has been adjudicated a common nuisance under the provisions of this chapter or § 18.2-258; or

3553 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
3554 drunks, prostitutes, pimps, panders, or habitual law violators or has become a place where illegal drugs
3555 are regularly used or distributed. The Board may consider the general reputation in the community of such
3556 establishment in addition to any other competent evidence in making such determination.

3557 3. The licensee or any employee of the licensee discriminated against any member of the Armed
3558 Forces of the United States by prices charged or otherwise.

3559 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
3560 had the facts been known.

3561 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
3562 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
3563 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
3564 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
3565 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
3566 plan approved by the same locality to settle the outstanding liability.

3567 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
3568 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
3569 licensed premises in the Commonwealth.

3570 7. Any other cause authorized by this title.

3571 **§ 4.1-630. Summary suspension in emergency circumstances; grounds; notice and hearing.**

3572 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
3573 Administrative Process Act or § 4.1-623 or 4.1-632, the Board may summarily suspend any license or
3574 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
3575 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
3576 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
3577 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
3578 continuing threat to public safety and that summary suspension of the license or permit is justified to
3579 protect the health, safety, or welfare of the public.

3580 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
3581 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
3582 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
3583 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
3584 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
3585 the licensee may petition the Board for a restricted license pending the results of the formal investigation
3586 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
3587 Board shall have discretion to impose appropriate restrictions based on the facts presented.

3588 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
3589 a formal investigation. The formal investigation shall be completed within 10 days of its commencement
3590 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
3591 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
3592 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
3593 of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing,

3594 the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be
3595 filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board
3596 shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

3597 D. Service of any order of suspension issued pursuant to this section shall be made by a special
3598 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
3599 immediately upon service.

3600 E. This section shall not apply to temporary permits granted under § 4.1-623.

3601 **§ 4.1-631. Grounds for which Board shall suspend or revoke licenses.**

3602 The Board shall suspend or revoke any license if it finds that:

3603 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
3604 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

3605 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
3606 government or governmental agency or authority, by making or filing any report, document, or tax return
3607 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
3608 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
3609 government or governmental agency or authority, by making or maintaining business records required by
3610 statute or regulation that are false or fraudulent.

3611 **§ 4.1-632. Suspension or revocation of licenses; notice and hearings; imposition of civil**
3612 **penalties.**

3613 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
3614 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
3615 Administrative Process Act (§ 2.2-4000 et seq.).

3616 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
3617 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
3618 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
3619 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
3620 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this

3621 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
3622 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
3623 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against
3624 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
3625 of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought
3626 within 10 working days, notwithstanding anything to the contrary in § 4.1-103.

3627 If the Board fails to provide for inspection or copying under this section for the licensee after a
3628 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
3629 have lawfully been entitled to inspect or copy under this section.

3630 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
3631 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
3632 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
3633 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
3634 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
3635 suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither
3636 mandamus nor injunction shall lie in any such case.

3637 B. In suspending any license the Board may impose, as a condition precedent to the removal of
3638 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
3639 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
3640 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
3641 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the
3642 violation or \$5,000 for the second or subsequent violation occurring within five years immediately
3643 preceding the date of the second or subsequent violation. However, if the violation involved selling retail
3644 marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail
3645 marijuana products or allowing consumption of retail marijuana or retail marijuana products, the Board
3646 may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years
3647 immediately preceding the date of the violation and \$6,000 for a second or subsequent violation occurring

3648 within five years immediately preceding the date of the second or subsequent violation in lieu of such
3649 suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee
3650 pay for the cost incurred by the Board not exceeding \$25,000 in investigating the licensee and in holding
3651 the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

3652 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
3653 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
3654 consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or
3655 applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any
3656 right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept
3657 the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed
3658 privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any
3659 portion of the suspension as applicable, or (4) proceed to a hearing.

3660 D. The Board shall, by regulation or written order:

3661 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
3662 initial hearing;

3663 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
3664 of suspension may be accepted for a first offense occurring within three years immediately preceding the
3665 date of the violation;

3666 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
3667 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
3668 its employees marijuana seller training certified in advance by the Board;

3669 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
3670 license and the civil charge acceptable in lieu of such suspension; and

3671 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
3672 licensee has had no prior violations within five years immediately preceding the date of the violation. No
3673 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
3674 chapter or Board regulations.

3675 § 4.1-633. Suspension or revocation; disposition of retail marijuana or retail marijuana
3676 products on hand; termination.

3677 A. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
3678 any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

3679 1. Sold to persons in the Commonwealth licensed to sell such retail marijuana or retail marijuana
3680 products upon permits granted by the Board in accordance with § 4.1-623 and conditions specified by the
3681 Board; or

3682 2. Provided to the Virginia State Police to be destroyed.

3683 B. All retail marijuana or retail marijuana products owned by or in the possession of any person
3684 whose license is suspended or revoked shall be disposed of by such person in accordance with the
3685 provisions of this section within 60 days from the date of such suspension or revocation.

3686 C. Retail marijuana or retail marijuana products owned by or in the possession of or for sale by
3687 persons whose licenses have been terminated other than by suspension or revocation may be disposed of
3688 in accordance with subsection A within such time as the Board deems proper. Such period shall not be
3689 less than 60 days.

3690 D. All retail marijuana or retail marijuana products owned by or remaining in the possession of
3691 any person described in subsection A or C after the expiration of such period shall be deemed contraband
3692 and forfeited to the Commonwealth in accordance with the provisions of § 4.1-677.

3693 Article 5.

3694 Administration of Retail Marijuana Licenses; Applications for Licenses; Fees; Taxes.

3695 § 4.1-634. Applications for licenses; publication; notice to localities; fees; permits.

3696 A. Every person intending to apply for any license authorized by this chapter shall file with the
3697 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
3698 and affirming that all of the information contained therein is true.

3699 Applicants for licenses for establishments that are otherwise required to obtain a food
3700 establishment permit from the Department of Health or an inspection by the Department of Agriculture
3701 and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending

3702 application for such permit, or proof of a pending request for such inspection. If the applicant provides a
3703 copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending
3704 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
3705 pending application or inspection, such license shall authorize the licensee to purchase retail marijuana or
3706 retail marijuana products in accordance with the provisions of this chapter; however, the licensee shall not
3707 sell or serve retail marijuana or retail marijuana products until a permit is issued or an inspection is
3708 completed.

3709 B. In addition, each applicant for a license under the provisions of this chapter shall post a notice
3710 of his application with the Board on the front door of the building, place, or room where he proposes to
3711 engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size
3712 and contain such information as required by the Board, including a statement that any objections shall be
3713 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
3714 this subsection.

3715 The applicant shall also cause notice to be published at least once a week for two consecutive
3716 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
3717 such applicant proposes to engage in such business. Such notice shall contain such information as required
3718 by the Board, including a statement that any objections to the issuance of the license be submitted to the
3719 Board not later than 30 days from the date of the initial newspaper publication.

3720 The Board shall conduct a background investigation, to include a criminal history records search,
3721 which may include a fingerprint-based national criminal history records search, on each applicant for a
3722 license. However, the Board may waive, for good cause shown, the requirement for a criminal history
3723 records search and completed personal data form for officers, directors, nonmanaging members, or limited
3724 partners of any applicant corporation, limited liability company, or limited partnership. In considering
3725 criminal history record information, the Board shall not disqualify an applicant because of a past
3726 conviction for a marijuana-related offense.

3727 The Board shall notify the local governing body of each license application through the county or
3728 city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit
3729 objections to the granting of a license within 30 days of the filing of the application.

3730 C. Each applicant shall pay the required application fee at the time the application is filed, except
3731 that such fee shall be waived or discounted for qualified social equity applicants pursuant to regulations
3732 promulgated by the Board. The license application fee shall be determined by the Board and shall be in
3733 addition to the actual cost charged to the Department of State Police by the Federal Bureau of Investigation
3734 or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of
3735 Investigation or the Central Criminal Records Exchange for each criminal history records search required
3736 by the Board. Application fees shall be in addition to the state license fee required pursuant to § 4.1-635
3737 and shall not be refunded.

3738 D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however,
3739 all licensees shall file and maintain with the Board a current, accurate record of the information required
3740 by the Board pursuant to subsection A and notify the Board of any changes to such information in
3741 accordance with Board regulations.

3742 E. Every application for a permit granted pursuant to § 4.1-623 shall be on a form provided by the
3743 Board. Such permits shall confer upon their holders no authority to make solicitations in the
3744 Commonwealth as otherwise provided by law.

3745 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
3746 for applicable licenses to sell retail marijuana or retail marijuana products computed to the nearest cent
3747 and multiplied by the number of months for which the permit is granted.

3748 F. The Board shall have the authority to increase state license fees. The Board shall set the amount
3749 of such increases on the basis of the consumer price index and shall not increase fees more than once every
3750 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
3751 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
3752 would be required for any license affected by the Board's proposed fee increases. Such notice shall be

3753 provided on or before November 1 in any year in which the Board has decided to increase state license
3754 fees, and such increases shall become effective July 1 of the following year.

3755 **§ 4.1-635. Fees for state licenses.**

3756 A. The annual fees on state licenses shall be determined by the Board.

3757 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
3758 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
3759 the number of months in the license period, and then increased by five percent. Such fee shall not be
3760 refundable, except as provided in § 4.1-636.

3761 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
3762 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
3763 chapter, shall be liable to state merchants' license taxation and other state taxation.

3764 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
3765 purchased in person from the Board if such license is available for purchase online.

3766 **§ 4.1-636. Refund of state license fee.**

3767 A. The Board may correct erroneous assessments made by it against any person and make refunds
3768 of any amounts collected pursuant to erroneous assessments, or collected as fees on licenses, that are
3769 subsequently refused or application therefor withdrawn, and to allow credit for any license fees paid by
3770 any licensee for any license that is subsequently merged or changed into another license during the same
3771 license period. No refund shall be made of any such amount, however, unless made within three years
3772 from the date of collection of the same.

3773 B. In any case where a licensee has changed its name or form of organization during a license
3774 period without any change being made in its ownership, and because of such change is required to pay an
3775 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
3776 paid in excess of the required license fee for such period.

3777 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
3778 of state license fees paid pursuant to subsection A of § 4.1-635 if the place of business designated in the

3779 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
3780 similar natural disaster or phenomenon.

3781 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
3782 of moneys appropriated to the Board and in the manner prescribed in § 4.1-607.

3783 **§ 4.1-637. Marijuana tax; exceptions.**

3784 A. A tax of 21 percent is levied on the sale in the Commonwealth of any retail marijuana, retail
3785 marijuana products, marijuana paraphernalia sold by a retail marijuana store, non-retail marijuana, and
3786 non-retail marijuana products. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-
3787 600 et seq.) of Title 58.1 or any other provision of federal, state, or local law.

3788 B. The tax shall not apply to any sale:

3789 1. From a marijuana establishment to another marijuana establishment.

3790 2. Of cannabis oil for treatment under the provisions of § 54.1-3408.3 and Article 4.2 (§ 54.1-
3791 3442.5 et seq.) of the Drug Control Act.

3792 3. Of industrial hemp by a grower, processor, or dealer under the provisions of Chapter 41.1 (§
3793 3.2-4112 et seq.) of Title 3.2.

3794 4. Of industrial hemp extract or food containing an industrial hemp extract under the provisions of
3795 Article 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2.

3796 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §
3797 4.1-607.

3798 **§ 4.1-638. Optional local marijuana tax.**

3799 A. Any locality that has by referendum authorized the operation of retail marijuana stores may by
3800 ordinance levy a three percent tax on any sale taxable under § 4.1-637. The tax shall be in addition to any
3801 local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, any food and beverage tax
3802 imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1, and any excise tax imposed
3803 on meals under § 58.1-3840. Other than the taxes authorized and identified in this subsection, a locality
3804 shall not impose any other tax on a sale taxable under § 4.1-637.

3805 B. If a town imposes a tax under this section, any tax imposed by its surrounding county under this
3806 section shall not apply within the limits of the town.

3807 C. Nothing in this section shall be construed to prohibit a locality from imposing any tax authorized
3808 by law on a person or property regulated under this chapter. Nothing in this section shall be construed to
3809 limit the authority of any locality to impose a license or privilege tax or fee on a business engaged in
3810 whole or in part in sales taxable under § 4.1-637 if such tax or fee is (i) based on an annual or per-event
3811 flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax
3812 includes sales or receipts taxable under § 4.1-637 in its taxable measure.

3813 D. Any locality that enacts an ordinance pursuant to subsection A shall, within 30 days, notify the
3814 Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall
3815 take effect on the first day of the second month following its enactment.

3816 E. Any tax levied under this section shall be administered and collected by the Authority in the
3817 same manner as provided for the tax imposed under § 4.1-637.

3818 F. All revenues remitted to the Authority under this section shall be disposed of as provided in §
3819 4.1-607.

3820 **§ 4.1-639. Tax returns and payments; commissions; interest.**

3821 A. For any sale taxable under §§ 4.1-637 and 4.1-638, the seller shall be liable for collecting any
3822 taxes due. All taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The
3823 buyer shall not be liable for collecting or remitting the taxes or filing a return.

3824 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-637 or
3825 4.1-638 shall file a return under oath with the Authority and pay any taxes due. Upon written application
3826 by a person filing a return, the Authority may, if it determines good cause exists, grant an extension to the
3827 end of the calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension
3828 shall toll the accrual of any interest or penalties under § 4.1-642.

3829 C. The Authority may accept payment by any commercially acceptable means, including cash,
3830 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
3831 under this article. The Board may assess a service charge for the use of a credit or debit card.

3832 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
3833 card, or automated clearinghouse transfer information and use such information for future payments of
3834 taxes, interest, or penalties due under this article. The Authority may assess a service charge for any
3835 payments made under this subsection. The Authority may procure the services of a third-party vendor for
3836 the secure storage of information collected pursuant to this subsection.

3837 E. If any person liable for tax under §§ 4.1-637 and 4.1-638 sells out his business or stock of goods
3838 or quits the business, such person shall make a final return and payment within 15 days after the date of
3839 selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the
3840 purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former
3841 owner produces a receipt from the Authority showing payment or a certificate stating that no taxes,
3842 penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase
3843 money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and
3844 penalties due and unpaid on account of the operation of the business by any former owner.

3845 F. When any person fails to timely pay the full amount of tax due under § 4.1-637 or 4.1-638,
3846 interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes
3847 due under §§ 4.1-637 and 4.1-638 shall, if applicable, be subject to penalties as provided in §§ 4.1-671
3848 and 4.1-672.

3849 **§ 4.1-640. Bonds.**

3850 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
3851 of the taxes levied under §§ 4.1-637 and 4.1-638, require any person subject to such tax to file a bond,
3852 with such surety as it determines is necessary to secure the payment of any tax, penalty, or interest due or
3853 that may become due from such person. In lieu of such bond, securities approved by the Authority may
3854 be deposited with the State Treasurer, which securities shall be kept in the custody of the State Treasurer,
3855 and shall be sold by the State Treasurer at the request of the Authority at public or private sale if it becomes
3856 necessary to do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such
3857 sale, the surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

3858 **§ 4.1-641. Refunds.**

3859 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
3860 4.1-637 or 4.1-638 have been paid and that the taxable items were or are (i) damaged, destroyed, or
3861 otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the
3862 consumer; (ii) destroyed voluntarily because the taxable items were defective and after notice to and
3863 approval by the Authority of such destruction; or (iii) destroyed in any manner while in the possession of
3864 a common, private, or contract carrier, the Authority shall certify such facts to the Comptroller for
3865 approval of a refund payment from the state treasury to such extent as may be proper.

3866 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
3867 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
3868 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
3869 extent as may be proper.

3870 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
3871 637 or 4.1-638 has been collected or charged to the account of the buyer, the seller shall be entitled to a
3872 refund of the amount of tax so collected or charged in the manner prescribed by the Authority. The amount
3873 of tax so refunded to the seller shall not, however, include the tax paid upon any amount retained by the
3874 seller after such return of merchandise. In case the tax has not been remitted by the seller, the seller may
3875 deduct the same in submitting his return.

3876 **§ 4.1-642. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
3877 **penalties.**

3878 A. The taxes imposed under §§ 4.1-637 and 4.1-638 shall be assessed within three years from the
3879 date on which such taxes became due and payable. In the case of a false or fraudulent return with intent
3880 to defraud the Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in
3881 court for the collection of such taxes may be begun without assessment, at any time within six years from
3882 such date. The Authority shall not examine any person's records beyond the three-year period of
3883 limitations unless it has reasonable evidence of fraud or reasonable cause to believe that such person was
3884 required by law to file a return and failed to do so.

3885 B. If any person fails to file a return as required by this section, or files a return that is false or
3886 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
3887 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
3888 days' notice requiring such person to provide any records as it may require relating to the business of such
3889 person for the taxable period. The Authority may require such person or the agents and employees of such
3890 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
3891 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
3892 required return, refuses to provide required records, or refuses to answer interrogatories from the
3893 Authority, the Authority may make an estimated assessment based upon the information available to it
3894 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
3895 The estimated assessment shall be deemed prima facie correct.

3896 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
3897 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
3898 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
3899 the person's place of business is located or in which the person resides. If the person has no place of
3900 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
3901 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
3902 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
3903 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
3904 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
3905 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
3906 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
3907 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
3908 in those instances where the Authority determines that the collection of any tax, penalties, or interest
3909 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
3910 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
3911 to the person at his last known address.

3912 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
3913 appeal under § 4.1-643.

3914 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
3915 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
3916 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
3917 of the doors so padlocked. If after three business days, the tax deficiency has not been satisfied or
3918 satisfactory arrangements for payment made, the Authority may cause a writ of fieri facias to be issued. It
3919 shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior approval of the
3920 Authority. In the event that the person against whom the distraint has been applied subsequently appeals
3921 under § 4.1-643, the person shall have the right to post bond equaling the amount of liability in lieu of
3922 payment until the appeal is resolved.

3923 4. A person may petition the Authority after a memorandum of lien has been filed under this
3924 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination
3925 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
3926 certificate of release of the lien within seven days after such determination is made.

3927 **§ 4.1-643. Appeals.**

3928 Any tax imposed under § 4.1-637 or 4.1-638, any interest imposed under § 4.1-642, any action of
3929 the Authority under § 4.1-669, and any penalty imposed under § 4.1-671 or 4.1-672 shall be subject to
3930 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire
3931 evidential record of the proceedings provided by the Authority in accordance with the Administrative
3932 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
3933 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
3934 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
3935 any such case.

3936 Article 6.

3937 Possession of Retail Marijuana and Retail Marijuana Products; Prohibited Practices Generally.

3938 **§ 4.1-644. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
3939 **or older lawful; civil penalty.**

3940 A. Except as otherwise provided in this title and notwithstanding any other provision of law, a
3941 person 21 years of age or older may lawfully possess on his person or in any public place not more than
3942 one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation
3943 promulgated by the Board.

3944 B. Any person who possesses on his person or in any public place marijuana or marijuana products
3945 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25. A
3946 violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be
3947 deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.
3948 The penalty for any violations of this section by an adult shall be prepayable according to the procedures
3949 in § 16.1-69.40:2. Any violation of this section shall be charged by summons. A summons for a violation
3950 of this section may be executed by a law-enforcement officer when such violation is observed by such
3951 officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the
3952 same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

3953 C. With the exception of a licensee in the course of his duties related to such licensee's marijuana
3954 establishment, any person who possesses on his person or in any public place more than five pounds of
3955 marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the
3956 Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than
3957 10 years and a fine of not more than \$250,000, or both.

3958 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
3959 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
3960 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
3961 necessary for the performance of their duties.

3962 **§ 4.1-645. Home cultivation of marijuana for personal use; penalties.**

3963 A. A person 21 years of age or older may cultivate up to two mature marijuana plants and two
3964 immature marijuana plants for personal use at their place of residence; however, at no point shall a

3965 household contain more than two mature marijuana plants and two immature marijuana plants. For
3966 purposes of this section, a "household" means those individuals, whether related or not, who live in the
3967 same house or other place of residence.

3968 A person may only cultivate marijuana plants pursuant to this section at such person's main place
3969 of residence.

3970 B. A person who cultivates marijuana for personal use pursuant to this section shall:

3971 1. Ensure that the marijuana is not visible from a public way without the use of aircraft, binoculars,
3972 or other optical aids;

3973 2. Take reasonable precautions to prevent unauthorized access by persons younger than 21 years
3974 of age; and

3975 3. Attach to each mature marijuana plant and immature marijuana plant a legible tag that includes
3976 the person's name, driver's license or identification number, and a notation that the marijuana plant is being
3977 grown for personal use as authorized under this section.

3978 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The
3979 owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to
3980 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

3981 D. The following penalties or punishments shall be imposed on any person convicted of a violation
3982 of this section:

3983 1. For possession of more than four but no more than 10 marijuana plants, (i) a civil penalty of
3984 \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor
3985 for a third and any subsequent offense;

3986 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3987 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

3988 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
3989 imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or
3990 both.

3991 **§ 4.1-646. Illegal cultivation or manufacture of marijuana or marijuana products;**
3992 **conspiracy; penalties.**

3993 A. Except as otherwise provided in §§ 4.1-613 and 4.1-645, no person shall cultivate or
3994 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
3995 title to cultivate or manufacture such marijuana or marijuana products.

3996 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

3997 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
3998 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such
3999 conspiracy is guilty of a Class 6 felony.

4000 **§ 4.1-647. Illegal sale of marijuana or marijuana products in general; penalties.**

4001 A. If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products
4002 except as permitted by this chapter or provided in subsection B, he is guilty of a Class 2 misdemeanor.

4003 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

4004 B. No civil or criminal penalty may be imposed for transferring an amount of marijuana that does
4005 not exceed one ounce, or for transferring an equivalent amount of marijuana products or concentrate, to a
4006 person who is 21 years of age or older without remuneration. For purposes of this subsection, a transfer if
4007 for remuneration if marijuana is given away contemporaneously with another transaction between the
4008 same parties, if a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
4009 goods or services, or if the gift of marijuana is contingent upon a separate transaction for goods or services.

4010 **§ 4.1-648. Persons to whom marijuana or marijuana products may not be sold; proof of legal**
4011 **age; penalties.**

4012 A. No person shall, except pursuant to § 4.1-613, sell, give, or distribute any marijuana or
4013 marijuana products to any individual when at the time of such sale he knows or has reason to believe that
4014 the individual to whom the sale is made is (i) younger than 21 years of age or (ii) intoxicated. Any person
4015 convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

4016 B. It is unlawful for any person 21 years of age or older to sell or distribute, or possess with the
4017 intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. Any person
4018 who violates this subsection is guilty of a Class 1 misdemeanor.

4019 C. It is unlawful for any person 21 years of age or older to place in any newspaper, magazine,
4020 handbill, or other publication any advertisement, knowing or under circumstances where one reasonably
4021 should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana
4022 paraphernalia to persons younger than 21 years of age. Any person who violates this subsection is guilty
4023 of a Class 1 misdemeanor.

4024 D. Any person who sells, except pursuant to § 4.1-613, any marijuana or marijuana products to an
4025 individual who is younger than 21 years of age and at the time of the sale does not require the individual
4026 to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty
4027 of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or
4028 reasonably appears to be an unexpired driver's license issued by any state of the United States or the
4029 District of Columbia, military identification card, United States passport or foreign government visa,
4030 unexpired special identification card issued by the Department of Motor Vehicles, or any other valid
4031 government-issued identification card bearing the individual's photograph, signature, height, weight, and
4032 date of birth, or which bears a photograph that reasonably appears to match the appearance of the
4033 purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes
4034 of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3
4035 misdemeanor. Notwithstanding the provisions of § 4.1-614, the Board shall not take administrative action
4036 against a licensee for the conduct of his employee who violates this subsection.

4037 E. No person shall be convicted of both subsections A and D for the same sale.

4038 **§ 4.1-649. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
4039 **exceptions; penalties; forfeiture; deferred proceedings; treatment and education programs and**
4040 **services.**

4041 A. No person to whom retail marijuana or retail marijuana products may not lawfully be sold under
4042 § 4.1-648 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana

4043 or marijuana products, except (i) pursuant to § 4.1-613 or (ii) by any federal, state, or local law-
4044 enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the
4045 performance of his duties. Such person may be prosecuted either in the county or city in which the
4046 marijuana or marijuana products were possessed or consumed or in the county or city in which the person
4047 exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

4048 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
4049 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
4050 if available, that in the opinion of the court best suits the needs of the accused.

4051 When any person 18 years of age or older who has not previously violated subsection A or been
4052 convicted of consumption, purchase, or possession of marijuana or marijuana products in Virginia or any
4053 other state or the United States is before the court, the court may, upon entry of a plea of guilty or not
4054 guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, shall,
4055 without entering a judgment of guilt, defer further proceedings and place the accused on probation subject
4056 to appropriate conditions. As a term and condition, the court shall require the accused to enter a substance
4057 abuse treatment or education program or both, if available, that in the opinion of the court best suits the
4058 needs of the accused. If the accused is placed on local community-based probation, the program or services
4059 shall be located in any of the judicial districts served by the local community-based probation services
4060 agency.

4061 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise
4062 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the
4063 proceedings against the person without an adjudication of guilt. A discharge and dismissal hereunder shall
4064 be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

4065 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 for a
4066 first offense and the court shall require the accused to enter a substance abuse treatment or education
4067 program or both, if available, that in the opinion of the court best suits the needs of the accused. For
4068 purposes of §§ 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as
4069 delinquent.

4070 D. Any such substance abuse treatment or education program to which a person is ordered pursuant
4071 to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and
4072 Developmental Services or (ii) a program or services made available through a community-based
4073 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if
4074 one has been established for the locality. When an offender is ordered to a local community-based
4075 probation services agency, the local community-based probation services agency shall be responsible for
4076 providing for services or referring the offender to education or treatment services as a condition of
4077 probation.

4078 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
4079 Assessment and Treatment Fund established pursuant to § 18.2-251.02.F. No person younger than 21
4080 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate
4081 a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a
4082 birth certificate or student identification card; or (iii) motor vehicle driver's license or other document
4083 issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction,
4084 birth certificate, or student identification card of another person in order to establish a false identification
4085 or false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail
4086 marijuana products. Any person convicted of a violation of this subsection is guilty of a Class 1
4087 misdemeanor.

4088 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
4089 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-677.

4090 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
4091 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
4092 immunity from an administrative penalty for a violation of § 4.1-648.

4093 **§ 4.1-650. Purchasing retail marijuana or retail marijuana products for one to whom they**
4094 **may not be sold; penalty; forfeiture.**

4095 A. Any person who purchases retail marijuana or retail marijuana products for another person and
4096 at the time of such purchase knows or has reason to believe that the person for whom the retail marijuana
4097 or retail marijuana products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

4098 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of retail
4099 marijuana or retail marijuana products to, another person when he knows or has reason to know that such
4100 person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
4101 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
4102 Class 1 misdemeanor.

4103 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
4104 contraband and forfeited to the Commonwealth in accordance with § 4.1-677.

4105 **§ 4.1-651. Using or consuming marijuana or marijuana products while in a motor vehicle**
4106 **being driven upon a public highway; penalty.**

4107 A. For the purposes of this section:

4108 "Open container" means any vessel containing marijuana or marijuana products, except the
4109 originally sealed manufacturer's container.

4110 "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within
4111 the reach of the driver, including an unlocked glove compartment, and the area designed to seat
4112 passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last
4113 upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the
4114 living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used
4115 primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while
4116 engaged in the transportation of such persons.

4117 B. It is unlawful for any person to use or consume marijuana or marijuana products while driving
4118 a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor
4119 vehicle being driven upon a public highway of the Commonwealth.

4120 C. A judge or jury may make a permissive inference that a person has consumed marijuana or
4121 marijuana products in violation of this section if (i) an open container is located within the passenger area

4122 of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least
4123 partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person,
4124 excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may
4125 be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county
4126 or city in which the person exhibits evidence of physical indicia of use or consumption of marijuana.

4127 D. Any person who violates this section is guilty of a Class 4 misdemeanor.

4128 **§ 4.1-652. Consuming marijuana or marijuana products, or offering to another, in public**
4129 **place; penalty.**

4130 A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana
4131 product to another, whether accepted or not, at or in any public place.

4132 B. Any person who violates this section is subject to a civil penalty of no more than \$25 for a first
4133 offense. A person who is convicted under this section of a second offense is subject to a \$25 civil penalty
4134 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that
4135 in the opinion of the court best suits the needs of the accused. A person convicted under this section of a
4136 third or subsequent offense is guilty of a Class 4 misdemeanor.

4137 **§ 4.1-653. Consuming or possessing marijuana or marijuana products in or on public school**
4138 **grounds; penalty.**

4139 A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds
4140 of any public elementary or secondary school during school hours or school or student activities.

4141 B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana
4142 products in or upon the grounds of any public elementary or secondary school after school hours or school
4143 or student activities.

4144 C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

4145 **§ 4.1-654. Possessing or consuming marijuana or marijuana products while operating a**
4146 **school bus; penalty.**

4147 Any person who possesses or consumes marijuana or marijuana products while operating a school
4148 bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school
4149 bus" has the same meaning as provided in § 46.2-100.

4150 **§ 4.1-655. Illegal importation, shipment, and transportation of marijuana or marijuana**
4151 **products; penalty; exception.**

4152 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the
4153 Commonwealth.

4154 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4155 **§ 4.1-656. Limitation on carrying retail marijuana or retail marijuana products in motor**
4156 **vehicle transporting passengers for hire; penalty.**

4157 The transportation of retail marijuana or retail marijuana products in any motor vehicle that is
4158 being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried
4159 in the possession of a passenger who is being transported for compensation at the regular rate and fare
4160 charged other passengers.

4161 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4162 **§ 4.1-657. Maintaining common nuisances; penalties.**

4163 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
4164 every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given
4165 away, or used contrary to law, by any scheme or device whatsoever, shall be deemed common nuisances.

4166 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
4167 nuisance.

4168 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

4169 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
4170 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-677 and 4.1-678
4171 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,
4172 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving
4173 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that

4174 the premises shall not be used for unlawful purposes, or in violation of the provisions of this chapter for a
4175 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as
4176 provided in § 4.1-678.

4177 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
4178 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
4179 had the right, because of such unlawful use, to enter and repossess the property.

4180 **§ 4.1-658. Maintaining a fortified drug house; penalty.**

4181 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
4182 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
4183 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
4184 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing
4185 or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug
4186 house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

4187 **§ 4.1-659. Disobeying subpoena; hindering conduct of hearing; penalty.**

4188 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
4189 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
4190 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
4191 to hold and conduct such hearing.

4192 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4193 **§ 4.1-660. Illegal advertising; penalty; exception.**

4194 A. Except in accordance with this title and Board regulations, no person shall advertise in or send
4195 any advertising matter into the Commonwealth about or concerning marijuana other than such that may
4196 legally be manufactured or sold without a license.

4197 B. Marijuana cultivation facility licensees, marijuana manufacturing facility licensees, marijuana
4198 wholesaler licensees, and retail marijuana store licensees may engage in the display of outdoor retail
4199 marijuana or retail marijuana products advertising on lawfully erected signs, provided that such display is
4200 done in accordance with § 4.1-691 and Board regulations.

4201 C. Except as provided in subsection D, any person convicted of a violation of this section is guilty
4202 of a Class 1 misdemeanor.

4203 D. For violations of § 4.1-691 relating to distance and zoning restrictions on outdoor advertising,
4204 the Board shall give the advertiser written notice to take corrective action to either bring the advertisement
4205 into compliance with this title and Board regulations or to remove such advertisement. If corrective action
4206 is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

4207 **§ 4.1-661. Delivery of marijuana or marijuana products to prisoners; penalty.**

4208 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
4209 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
4210 correctional center any marijuana or marijuana products.

4211 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4212 **§ 4.1-662. Separation of plant resin by butane extraction; penalty.**

4213 A. No person shall separate plant resin by butane extraction or another method that utilizes a
4214 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
4215 the curtilage of any residential structure.

4216 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4217 **§ 4.1-663. Attempts; aiding or abetting; penalty.**

4218 No person shall attempt to do any of the things prohibited by this title or to aid or abet another in
4219 doing, or attempting to do, any of the things prohibited by this title.

4220 On an indictment, information, or warrant for the violation of this chapter, the jury or the court
4221 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
4222 as if the defendant were solely guilty of such violation.

4223 **§ 4.1-664. Persons charged with first offense may be placed on probation; conditions;**
4224 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
4225 **costs and fees; violations; discharge.**

4226 A. Whenever any person who has not previously been convicted of any offense under this article
4227 pleads guilty to or enters a plea of not guilty to an offense under this article, the court, upon such plea if

4228 the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with
4229 the consent of the accused, may defer further proceedings and place the accused on probation upon terms
4230 and conditions.

4231 B. As a term or condition, the court shall require the accused to undergo a substance abuse
4232 assessment pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any
4233 combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of
4234 the accused based upon consideration of the substance abuse assessment. The program or services may be
4235 located in the judicial district in which the charge is brought or in any other judicial district as the court
4236 may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
4237 Health and Developmental Services, or a similar program that is made available through the Department
4238 of Corrections; (ii) a local community-based probation services agency established pursuant to § 9.1-174;
4239 or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol
4240 Safety Action Program (VASAP).

4241 C. The court shall require the person entering such program under the provisions of this section to
4242 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
4243 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
4244 indigent.

4245 D. As a condition of probation, the court shall require the accused (i) to successfully complete
4246 treatment or education programs or services, (ii) to remain drug-free and alcohol-free during the period of
4247 probation and submit to such tests during that period as may be necessary and appropriate to determine if
4248 the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain
4249 employment, and (iv) to comply with a plan of up to 24 hours of community service. Such testing shall be
4250 conducted by personnel of the supervising probation agency or personnel of any program or agency
4251 approved by the supervising probation agency.

4252 E. The court shall, unless done at arrest, order the accused to report to the original arresting law-
4253 enforcement agency to submit to fingerprinting.

4254 F. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed
4255 as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
4256 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
4257 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
4258 proceedings.

4259 G. When any juvenile is found to have committed a violation of subsection A, the disposition of
4260 the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of
4261 Title 16.1.

4262 Article 7.

4263 Prohibited Practices by Licensees.

4264 **§ 4.1-665. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

4265 A. No licensee or any agent or employee of such licensee shall:

4266 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
4267 of a kind other than that which such license or this title authorizes him to cultivate, manufacture, transport,
4268 sell, or test;

4269 2. Sell retail marijuana or retail marijuana products of a kind that such license or this title authorizes
4270 him to sell, but to any person other than to those to whom such license or this title authorizes him to sell;

4271 3. Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that
4272 such license or this title authorizes him to sell, but in any place or in any manner other than such license
4273 or this title authorizes him to cultivate, manufacture, transport, sell, or test;

4274 4. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products
4275 when forbidden by this chapter;

4276 5. Keep or allow to be kept, other than in his residence and for his personal use, any retail marijuana
4277 or retail marijuana products other than that which he is authorized to cultivate, manufacture, transport,
4278 sell, or transport by such license or by this chapter;

4279 6. Sell any retail marijuana or retail marijuana products to a retail marijuana store licensee, except
4280 for cash, if the seller holds a marijuana cultivation facility, marijuana manufacturing facility, or marijuana
4281 wholesaler license;

4282 7. Keep any retail marijuana or retail marijuana product other than in the container in which it was
4283 purchased by him; or

4284 8. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee
4285 at a retail marijuana store.

4286 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4287 **§ 4.1-666. Prohibited acts by employees of retail marijuana store licensees; civil penalty.**

4288 A. In addition to the provisions of § 4.1-665, no retail marijuana store licensee or his agent or
4289 employee shall consume any retail marijuana or retail marijuana products while on duty and in a position
4290 that is involved in the selling of retail marijuana or retail marijuana products to consumers.

4291 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana
4292 or marijuana products.

4293 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
4294 amount not to exceed \$500.

4295 **§ 4.1-667. Sale of; purchase for resale; marijuana or marijuana products from a person**
4296 **without a license; penalty.**

4297 No retail marijuana store licensee shall purchase for resale or sell any retail marijuana or retail
4298 marijuana products purchased from anyone other than a marijuana wholesaler licensee.

4299 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4300 **§ 4.1-668. Prohibiting transfer of retail marijuana or retail marijuana products by licensees;**
4301 **penalty.**

4302 A. No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products
4303 from one licensed place of business to another licensed place of business, whether or not such places of
4304 business are under the same ownership.

4305 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

4306 **§ 4.1-669. Illegal advertising materials; civil penalty.**

4307 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
4308 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
4309 decorations under circumstances prohibited by this title or Board regulations.

4310 Any person found by the Board to have violated this section shall be subject to a civil penalty as
4311 authorized in § 4.1-632.

4312 **§ 4.1-670. Solicitation by persons interested in manufacture, etc., of marijuana or marijuana**
4313 **products; penalty.**

4314 A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of
4315 retail marijuana or retail marijuana products shall, without a permit granted by the Board and upon such
4316 conditions as the Board may prescribe, solicit either directly or indirectly (i) a retail marijuana store
4317 licensee; (ii) any agent or employee of such licensee; or (iii) any person connected with the licensee in
4318 any capacity whatsoever in his licensed business to sell or offer for sale the retail marijuana or retail
4319 marijuana products in which such person may be so interested.

4320 The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate
4321 the sale of the retail marijuana or retail marijuana products that were the subject matter of the unlawful
4322 solicitation or promotion. In addition, the Board may suspend or terminate the sale of all retail marijuana
4323 or retail marijuana products manufactured or distributed by either the employer or principal of such
4324 solicitor, the broker, or by the owner of the brand unlawfully solicited or promoted. The Board may impose
4325 a civil penalty not to exceed \$250,000 in lieu of such suspension or termination of sales, or both.

4326 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

4327 B. No retail marijuana store licensee or any agent or employee of such licensee, or any person
4328 connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or
4329 indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

4330 The Board may suspend or revoke the license granted to such licensee or may impose a civil
4331 penalty not to exceed \$25,000 in lieu of such suspension or any portion thereof, or both.

4332 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

4333 **§ 4.1-671. Failure of licensee to pay tax or to deliver, keep, and preserve records and accounts**
4334 **or to allow examination and inspection; penalty.**

4335 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-637 or 4.1-638; (ii)
4336 deliver, keep, and preserve such records, invoices, and accounts as are required by § 4.1-616 or Board
4337 regulation; or (iii) allow such records, invoices, and accounts or his place of business to be examined and
4338 inspected in accordance with § 4.1-616. Any person convicted of a violation of this subsection is guilty of
4339 a Class 1 misdemeanor.

4340 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
4341 may suspend or revoke any license of such licensee that was issued by the Authority.

4342 **§ 4.1-672. Nonpayment of marijuana tax; penalties.**

4343 A. No person shall make a sale taxable under § 4.1-637 or 4.1-638 without paying all applicable
4344 taxes due under §§ 4.1-637 and 4.1-638. No retail marijuana store licensee shall purchase, receive,
4345 transport, store, or sell any retail marijuana or retail marijuana products on which such retailer has reason
4346 to know such tax has not been paid and may not be paid. Any person convicted of a violation of this
4347 subsection is guilty of a Class 1 misdemeanor.

4348 B. On any person who fails to file a return required for a tax due under § 4.1-637 or 4.1-638, there
4349 shall be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax due
4350 if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or
4351 fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the
4352 aggregate.

4353 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
4354 Commonwealth of any tax due on retail marijuana or retail marijuana products, a civil penalty of 50
4355 percent of the amount of the proper tax due shall be assessed. Such penalty shall be in addition to any
4356 penalty imposed under subsection B. It shall be prima facie evidence of willful intent to defraud the
4357 Commonwealth when any person reports its taxable sales to the Authority at 50 percent or less of the
4358 actual amount.

4359 D. If any check tendered for any amount due under § 4.1-637 or 4.1-638 or this section is not paid
4360 by the bank on which it is drawn, and the person that tendered the check fails to pay the Authority the
4361 amount due within five days after the Authority gives it notice that such check was returned unpaid, the
4362 person by which such check was tendered is guilty of a violation of § 18.2-182.1.

4363 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
4364 manner as if they were a part of the tax imposed.

4365 Article 8.

4366 Prohibited Practices; Procedural Matters.

4367 **§ 4.1-673. Enjoining nuisances.**

4368 A. In addition to the penalties imposed by § 4.1-657, the Board, its special agents, the attorney for
4369 the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in §
4370 4.1-657 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
4371 nuisance.

4372 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
4373 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
4374 marijuana products are cultivated, manufactured, stored, sold, dispensed, given away, or used in such
4375 house, building, or other place described in § 4.1-657 contrary to the laws of the Commonwealth, an
4376 injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and
4377 restrain the owners and tenants and their agents and employees, and any person connected with such
4378 house, building, or other place, and all persons whomsoever from cultivating, manufacturing, storing,
4379 selling, dispensing, giving away, or using marijuana or marijuana products on such premises. The
4380 injunction shall also restrain all persons from removing any marijuana or marijuana products then on such
4381 premises until the further order of the court. If the court is satisfied that the material allegations of the bill
4382 are true, although the premises complained of may not then be unlawfully used, it shall continue the
4383 injunction against such place for a period of time as the court deems proper. The injunction may be
4384 dissolved if a proper case is shown for dissolution.

4385 § 4.1-674. Contraband marijuana or marijuana products and other articles subject to
4386 forfeiture.

4387 A. All apparatus and materials for the cultivation or manufacture of marijuana or marijuana
4388 products, all marijuana or marijuana products and materials used in their manufacture, all containers in
4389 which marijuana or marijuana products may be found, which are kept, stored, possessed, or in any manner
4390 used in violation of the provisions of this chapter, and any dangerous weapons as described in § 18.2-308
4391 that may be used or that may be found upon the person, or in any vehicle that such person is using, to aid
4392 such person in the unlawful cultivation, manufacture, transportation, or sale of marijuana or marijuana
4393 products, or found in the possession of such person, or any horse, mule, or other beast of burden or any
4394 wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the immediate vicinity of
4395 any place where marijuana or marijuana products are being unlawfully manufactured and where such
4396 animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall
4397 be forfeited to the Commonwealth.

4398 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
4399 4.1-677 for all such property except motor vehicles which proceedings shall be in accordance with Chapter
4400 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

4401 § 4.1-675. Search without warrant; odor of marijuana.

4402 A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any
4403 person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained
4404 pursuant to a violation of this subsection, including evidence discovered or obtained with the person's
4405 consent, shall be admissible in any trial, hearing, or other proceeding.

4406 B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the
4407 violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

4408 § 4.1-676. Search warrants.

4409 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
4410 manufactured, sold, kept, stored, or in any manner held, used, or concealed in a particular house, or other
4411 place, in violation of law, the judge, magistrate, or other person having authority to issue criminal

4412 warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall
4413 issue a warrant to search such house or other place for marijuana or marijuana products. Such warrants,
4414 except as herein otherwise provided, shall be issued, directed, and executed in accordance with the laws
4415 of the Commonwealth pertaining to search warrants.

4416 B. Warrants issued under this title for the search of any automobile, boat, conveyance, or vehicle,
4417 whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for
4418 marijuana or marijuana products may be executed in any part of the Commonwealth where they are
4419 overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat,
4420 conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be
4421 transported contrary to law.

4422 **§ 4.1-677. Confiscation proceedings; disposition of forfeited articles.**

4423 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
4424 forfeited to the Commonwealth under this chapter shall be as provided in this section.

4425 B. Production of seized property. Whenever any article declared contraband under the provisions
4426 of this chapter and required to be forfeited to the Commonwealth has been seized, with or without a
4427 warrant, by any officer charged with the enforcement of this chapter, he shall produce the contraband
4428 article and any person in whose possession it was found. In those cases where no person is found in
4429 possession of such articles, the return shall so state and a copy of the warrant shall be posted on the door
4430 of the buildings or room where the articles were found, or if there is no door, then in any conspicuous
4431 place upon the premises.

4432 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
4433 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
4434 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
4435 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
4436 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
4437 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
4438 and the materials remaining after such destruction. The report shall include a statement that, from facts

4439 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
4440 up for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was
4441 impracticable to remove such apparatus to a place of safe storage.

4442 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
4443 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
4444 for the purpose of unlawful cultivation or manufacture of marijuana or marijuana products or any other
4445 violation of this chapter. The destruction shall be in the presence of at least one credible witness, and such
4446 witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The
4447 report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a
4448 statement that, from facts within their own knowledge, the seizing officer and witness have no doubt
4449 whatever that the marijuana or marijuana products were intended for use in the unlawful cultivation or
4450 manufacture of marijuana or marijuana products or were intended for use in violation of this chapter.

4451 C. Hearing and determination. Upon the return of the warrant as provided in this section, the court
4452 shall fix a time not less than 10 days, unless waived by the accused in writing, and not more than 30 days
4453 thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof,
4454 were used or in any manner kept, stored, or possessed in violation of this chapter.

4455 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
4456 Commonwealth and if such articles are not necessary as evidence in any pending prosecution shall turn
4457 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
4458 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
4459 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
4460 determine the validity of such claim.

4461 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
4462 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
4463 not be a bar to any prosecution under any other provision of this chapter.

4464 D. Disposition of forfeited articles. Any articles forfeited to the Commonwealth and turned over
4465 to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper.
4466 The net proceeds from such sales shall be paid into the Literary Fund.

4467 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
4468 Board in accordance with this section are usable, should not be destroyed, and cannot be sold or whose
4469 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
4470 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
4471 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
4472 date when given, and shall be kept in the offices of the Board.

4473 **§ 4.1-678. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

4474 A. When any officer charged with the enforcement of the alcoholic beverage and cannabis control
4475 laws of the Commonwealth has reason to believe that retail marijuana or retail marijuana products illegally
4476 acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on
4477 water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car, or
4478 steamboat company, other than barges, tugs, or small craft, he shall obtain a search warrant and search
4479 such conveyance or vehicle. If illegally acquired retail marijuana or retail marijuana products or retail
4480 marijuana or retail marijuana products being illegally transported in amounts in excess of two and one-
4481 half ounces of retail marijuana, 16 ounces of solid retail marijuana product, or 72 ounces of liquid retail
4482 marijuana product, the officer shall seize the retail marijuana or retail marijuana product, seize and take
4483 possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the
4484 locality in which such seizure was made, taking his receipt therefor in duplicate.

4485 B. The officer making such seizure shall also arrest all persons found in charge of such conveyance
4486 or vehicle and shall forthwith report in writing such seizure and arrest to the attorney for the
4487 Commonwealth for the county or city in which seizure and arrest were made.

4488 **§ 4.1-679. Contraband retail marijuana or retail marijuana products.**

4489 Retail marijuana or retail marijuana products seized pursuant to § 4.1-678 shall be deemed
4490 contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other

4491 indicia of permission issued by the Board authorizing the transportation of retail marijuana or retail
4492 marijuana products within the Commonwealth when other Board regulations applicable to such
4493 transportation have been complied with shall not be cause for deeming such retail marijuana or retail
4494 marijuana products contraband.

4495 **§ 4.1-680. Punishment for violations of title or regulations; bond.**

4496 A. Any person convicted of a misdemeanor under the provisions of this chapter without
4497 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
4498 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

4499 B. In addition to the penalties imposed by this title for violations, any court before whom any
4500 person is convicted of a violation of any provision of this chapter may require such defendant to execute
4501 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
4502 the condition that the defendant will not violate any of the provisions of this chapter for the term of one
4503 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
4504 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
4505 months. If any such bond required by a court is not given during the term of the court by which conviction
4506 is had, it may be given before any judge or before the clerk of such court.

4507 C. The provisions of this chapter shall not prevent the Board from suspending, revoking, or
4508 refusing to continue the license of any person convicted of a violation of any provision of this chapter.

4509 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
4510 assistant has been notified that such a case is pending.

4511 **§ 4.1-681. Witness not excused from testifying because of self-incrimination.**

4512 No person shall be excused from testifying for the Commonwealth as to any offense committed
4513 by another under this chapter by reason of his testimony tending to incriminate him. The testimony given
4514 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
4515 used against him, and he shall not be prosecuted for the offense to which he testifies.

4516 **§ 4.1-682. Previous convictions.**

4517 In any indictment, information, or warrant charging any person with a violation of any provision
4518 of this chapter, it may be alleged and evidence may be introduced at the trial of such person to prove that
4519 such person has been previously convicted of a violation of this chapter.

4520 **§ 4.1-683. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

4521 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board
4522 or the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for
4523 violations of this chapter and all controversies in any judicial proceedings touching the mixture analyzed
4524 by him. On motion of the accused or any party in interest, the court may require the forensic scientist
4525 making the analysis to appear as a witness and be subject to cross-examination, provided that such motion
4526 is made within a reasonable time prior to the day on which the case is set for trial.

4527 **§ 4.1-684. Label on sealed container prima facie evidence of marijuana content.**

4528 In any prosecution for violations of this chapter, where a sealed container is labeled as containing
4529 retail marijuana or retail marijuana products, such labeling shall be prima facie evidence of the marijuana
4530 content of the container. Nothing shall preclude the introduction of other relevant evidence to establish
4531 the marijuana content of a container, whether sealed or not.

4532 **§ 4.1-685. No recovery for retail marijuana or retail marijuana products illegally sold.**

4533 No action to recover the price of any retail marijuana or retail marijuana products sold in
4534 contravention of this chapter may be maintained.

4535 Article 9.

4536 Cannabis Control; Testing; Advertising.

4537 **§ 4.1-686. Board to establish regulations for marijuana testing.**

4538 The Board shall establish a testing program for marijuana and marijuana products. Except as
4539 otherwise provided in this article or otherwise provided by law, the program shall require a licensee, prior
4540 to selling or distributing retail marijuana or a retail marijuana product to a consumer or to another licensee,
4541 to submit a representative sample of the retail marijuana or retail marijuana product, not to exceed 10
4542 percent of the total harvest or batch, to a licensed marijuana testing facility for testing to ensure that the
4543 retail marijuana or retail marijuana product does not exceed the maximum level of allowable

4544 contamination for any contaminant that is injurious to health and for which testing is required and to
4545 ensure correct labeling. The Board shall adopt regulations (i) establishing a testing program pursuant to
4546 this section; (ii) establishing acceptable testing and research practices, including regulations relating to
4547 testing practices, methods, and standards; quality control analysis; equipment certification and calibration;
4548 marijuana testing facility recordkeeping, documentation, and business practices; disposal of used, unused,
4549 and waste retail marijuana and retail marijuana products; and reporting of test results; (iii) identifying the
4550 types of contaminants that are injurious to health for which retail marijuana and retail marijuana products
4551 shall be tested under this article; and (iv) establishing the maximum level of allowable contamination for
4552 each contaminant.

4553 **§ 4.1-687. Mandatory testing; scope; recordkeeping; notification; additional testing not**
4554 **required; required destruction; random testing.**

4555 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
4556 or to another licensee under this title unless a representative sample of the retail marijuana or retail
4557 marijuana product has been tested pursuant to this article and the regulations adopted pursuant to this
4558 article and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product
4559 does not exceed the maximum level of allowable contamination for any contaminant that is injurious to
4560 health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana
4561 product is correct.

4562 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall
4563 include testing for:

- 4564 1. Residual solvents, poisons, and toxins;
- 4565 2. Harmful chemicals;
- 4566 3. Dangerous molds and mildew;
- 4567 4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;
- 4568 5. Pesticides, fungicides, and insecticides; and
- 4569 6. Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct
4570 labeling.

4571 Testing shall be performed on the final form in which the retail marijuana or retail marijuana
4572 product will be consumed.

4573 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
4574 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the
4575 marijuana testing facility, and the results of the mandatory test.

4576 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
4577 marijuana or retail marijuana product exceeds the maximum level of allowable contamination for any
4578 contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall
4579 immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product
4580 and within 30 days of completing the test shall notify the Board of the test results.

4581 A marijuana testing facility is not required to notify the Board of the results of any test:

4582 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant
4583 to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum
4584 level of allowable contamination for any contaminant that is injurious to health and for which testing is
4585 required;

4586 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for
4587 research and development purposes only, so long as the licensee notifies the marijuana testing facility
4588 prior to the performance of the test that the testing is for research and development purposes only; or

4589 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
4590 not a licensee.

4591 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
4592 licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in
4593 accordance with this article and regulations adopted pursuant to this article if the following conditions are
4594 met:

4595 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
4596 with this article and regulations adopted pursuant to this article at the direction of another licensee and
4597 that testing demonstrated that the retail marijuana or retail marijuana product does not exceed the

4598 maximum level of allowable contamination for any contaminant that is injurious to health and for which
4599 testing is required;

4600 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana
4601 product are documented in accordance with the requirements of this article and all applicable regulations
4602 adopted pursuant to this article;

4603 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
4604 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana product
4605 to another licensee or to a consumer can be easily identified; and

4606 4. The retail marijuana or retail marijuana product has not undergone any further processing,
4607 manufacturing, or alteration subsequent to the performance of the prior testing under subsection A.

4608 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
4609 marijuana products whose testing samples indicate noncompliance with the health and safety standards
4610 required by this article and the regulations adopted by the Board pursuant to this article, unless remedial
4611 measures can bring the retail marijuana or retail marijuana products into compliance with such required
4612 health and safety standards.

4613 G. A licensee shall comply with all requests for samples of retail marijuana and retail marijuana
4614 products for the purpose of random testing by a state-owned laboratory or state-approved private
4615 laboratory.

4616 **§ 4.1-688. Labeling and packaging requirements; prohibitions.**

4617 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
4618 consumer in accordance with the provisions of this chapter shall be labeled with the following information:

4619 1. Identification of the type of marijuana or marijuana product and the date of cultivation,
4620 manufacturing, and packaging;

4621 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility,
4622 and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,
4623 manufactured, and offered for sale, as applicable;

4624 3. A statement of the net weight of the retail marijuana or retail marijuana product;

4625 4. Information concerning (i) pharmacologically active ingredients, including
4626 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other
4627 cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other
4628 cannabinoid amount in milligrams for the total package; and (iii) the potency of the THC and other
4629 cannabinoid content;

4630 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

4631 6. Instructions on usage;

4632 7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a
4633 recommended use by date or expiration date;

4634 8. For edible retail marijuana products, a nutritional fact panel;

4635 9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

4636 a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
4637 MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP
4638 OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
4639 YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
4640 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION."

4641 b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
4642 MARIJUANA. MARIJUANA IS FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP
4643 OUT OF REACH OF CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND
4644 YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
4645 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION.";

4646 10. A universal symbol stamped or embossed on the packaging of any retail marijuana and retail
4647 marijuana products; and

4648 11. Any other information required by Board regulations.

4649 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
4650 consumer in accordance with the provisions of this chapter shall be packaged in the following manner:

4651 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-
4652 evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a consumer
4653 in child-resistant, tamper-evident, and resealable packaging that is opaque;

4654 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
4655 component; and

4656 3. Packaging shall comply with any other requirements imposed by Board regulations.

4657 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
4658 consumer in accordance with the provisions of this chapter shall not:

4659 1. Be labeled or packaged in violation of a federal trademark law or regulation;

4660 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
4661 of age;

4662 3. Be labeled or packaged in a manner that obscures identifying information on the label;

4663 4. Be labeled or packaged using a false or misleading label;

4664 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, a vehicle,
4665 or fruit; and

4666 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
4667 by Board regulations.

4668 **§ 4.1-689. Other health and safety requirements for edible retail marijuana products and**
4669 **other retail marijuana products deemed applicable by the Authority; health and safety regulations.**

4670 A. Requirements and restrictions for edible retail marijuana products and other retail marijuana
4671 products deemed applicable by the Authority. In addition to all other applicable provisions of this article,
4672 edible retail marijuana products and other retail marijuana products deemed applicable by the Authority
4673 to be sold or offered for sale by a licensee to a consumer in accordance with this chapter:

4674 1. Shall be manufactured by an approved source, as determined by § 3.2-5145.8;

4675 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

4676 3. Shall be manufactured in a manner that results in the cannabinoid content within the product
4677 being homogeneous throughout the product or throughout each element of the product that has a
4678 cannabinoid content;

4679 4. Shall be manufactured in a manner that results in the amount of marijuana concentrate within
4680 the product being homogeneous throughout the product or throughout each element of the product that
4681 contains marijuana concentrate;

4682 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

4683 6. Shall not contain more than five milligrams of tetrahydrocannabinol (THC) per serving of the
4684 product and shall not contain more than 50 milligrams of THC per package of the product;

4685 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
4686 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
4687 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
4688 than 21 years of age; and

4689 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
4690 the trademarked product is used as a component of or ingredient in the edible retail marijuana product and
4691 the edible retail marijuana product is not advertised or described for sale as containing the trademarked
4692 product.

4693 B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or
4694 other health and safety regulations that it deems necessary for retail marijuana and retail marijuana
4695 products to be sold or offered for sale by a licensee to a consumer in accordance with this title. Regulations
4696 adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to the
4697 cultivation of retail marijuana, the manufacture of retail marijuana products, and the packaging and
4698 labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer. Such
4699 regulations shall address:

4700 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail
4701 marijuana products by licensees;

4702 2. Sanitary standards for marijuana establishments, including sanitary standards for the
4703 manufacture of retail marijuana and retail marijuana products; and

4704 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana
4705 stores.

4706 **§ 4.1-690. Advertising and marketing restrictions.**

4707 A. As used in this section, unless the context requires a different meaning, "health-related
4708 statement" means any statement related to health and includes statements of a curative or therapeutic
4709 nature that, expressly or by implication, suggest a relationship between the consumption of retail
4710 marijuana or retail marijuana products and health benefits or effects on health.

4711 B. No person shall advertise in or send any advertising matter into the Commonwealth about or
4712 concerning retail marijuana or retail marijuana products other than those that may be legally manufactured
4713 in the Commonwealth under this title or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

4714 C. A licensee shall not advertise through any means unless at least 85 percent of the audience is
4715 reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience
4716 composition data.

4717 D. A licensee shall not engage in the use of pop-up digital advertisements but may list their
4718 establishment in public phone books and directories.

4719 E. A licensee shall not display any marijuana or marijuana product pricing through any means of
4720 advertisement other than their establishment website, which shall be registered with the Authority, or an
4721 opt-in subscription-based service, provided that the licensee utilizes proper age verification techniques to
4722 confirm that the person attempting to access the website or sign up for a subscription-based service is 21
4723 years of age or older.

4724 F. Advertising or marketing used by or on behalf of a licensee:

4725 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a
4726 minimum, the licensee's license number, and shall include the statement "For use by adults 21 years of
4727 age and older";

4728 2. Shall not be misleading, deceptive, or false;

4729 3. Shall not appeal particularly to persons younger than 21 years of age, including by using
4730 cartoons in any way; and

4731 4. Shall comply with any other provisions imposed by Board regulations.

4732 G. Any advertising or marketing involving direct, individualized communication or dialogue
4733 controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years
4734 of age or older before engaging in that communication or dialogue controlled by the licensee. For the
4735 purposes of this subsection, that method of age affirmation may include user confirmation, birth date
4736 disclosure, or any other similar registration method.

4737 H. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or
4738 any marijuana accessories, as part of a business promotion or other commercial activity.

4739 I. A licensee shall not include on the label of any retail marijuana or retail marijuana product or
4740 publish or disseminate advertising or marketing containing any health-related statement that is untrue in
4741 any particular manner or tends to create a misleading impression as to the effects on health of marijuana
4742 consumption.

4743 J. The provisions of this section shall not apply to noncommercial speech.

4744 **§ 4.1-691. Outdoor advertising; limitations; variances; compliance with Title 33.2.**

4745 A. No outdoor retail marijuana or retail marijuana products advertising shall be placed within
4746 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge
4747 of the sign face upon which the advertisement is placed to the nearest edge of a building or structure
4748 located on the real property of (i) a public, private, or parochial school or an institution of higher education;
4749 (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use
4750 disorder treatment facility.

4751 B. However, (i) if there is no building or structure on a playground or similar recreational or child-
4752 centered facility, the measurement shall be from the nearest edge of the sign face upon which the
4753 advertisement is placed to the property line of such playground or similar recreational or child-centered
4754 facility and (ii) if a public, private, or parochial school providing grades kindergarten through 12 education
4755 is located across the road from a sign, the measurement shall be from the nearest edge of the sign face

4756 upon which the advertisement is placed to the nearest edge of a building or structure located on such real
4757 property across the road.

4758 C. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet from
4759 (i) a public, private, or parochial school or an institution of higher education; (ii) a public or private
4760 playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment
4761 facility, but the circumstances change such that the advertiser would otherwise be in violation of
4762 subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the
4763 term of any written advertising contract, but in no event more than one year from the date of the change
4764 in circumstances.

4765 D. Provided that such signs are in compliance with local ordinances, the distance and zoning
4766 restrictions contained in this section shall not apply to:

4767 1. Signs placed by licensees upon the property on which the licensed premises are located so long
4768 as such signs do not display imagery of marijuana or the use of marijuana or utilize long luminous gas-
4769 discharge tubes that contain rarefied neon or other gases; or

4770 2. Directional signs placed by marijuana manufacturing facility licensees or marijuana wholesaler
4771 licensees with advertising limited to trade names and brand names.

4772 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is
4773 included in the Integrated Directional Sign Program administered by the Virginia Department of
4774 Transportation or its agents.

4775 F. A marijuana licensee shall not use any billboard advertisements or advertise at any sporting
4776 event in the Commonwealth.

4777 G. All lawfully erected outdoor retail marijuana or retail marijuana products signs shall comply
4778 with the provisions of this chapter, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2
4779 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any
4780 outdoor retail marijuana products directional sign located or to be located on highway rights of way shall
4781 also be governed by and comply with the Integrated Directional Sign Program administered by the
4782 Virginia Department of Transportation or its agents.

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Article 10.

Virginia Cannabis Equity Business Loan Program and Fund.

§ 4.1-692. Definitions.

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

"CDFI" means a community development financial institution that provides credit and financial services for underserved communities.

"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-693.

"Funding" means loans made from the Fund established in § 4.1-694.

"Program" means the Virginia Cannabis Equity Business Loan Program.

"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-603 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a cannabis business under § 4.1-603.

§ 4.1-693. Virginia Cannabis Equity Business Loan Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cannabis Equity Business Loan 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 providing low-interest and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

§ 4.1-694. Selection of CDFI; Program requirements; guidelines for management of the Fund.

4810 A. The Authority shall establish a Program to provide loans to qualified social equity cannabis
4811 licensees for the purpose of promoting business ownership and economic growth by communities who
4812 have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work
4813 in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the
4814 Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience
4815 in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the
4816 capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the
4817 Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and
4818 shall report annually the number of businesses funded; the geographic distribution of the businesses; the
4819 costs of the Program; and the outcomes, including the number and types of jobs created.

4820 B. The Program shall:

4821 1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of
4822 a cannabis business properly licensed pursuant to the provisions of this chapter;

4823 2. Provide loans for the purposes described in subsection A;

4824 3. Provide technical assistance; and

4825 4. Bring together community partners to sustain the Program.

4826 **§ 4.1-695. Annual reports.**

4827 On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety
4828 and Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen
4829 of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on
4830 such other matters regarding the Fund as the Authority may deem appropriate, including the amount of
4831 funding committed to projects from the Fund, or other items as may be requested by any of the foregoing
4832 persons to whom such report is to be submitted.

4833 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
4834 **operation.**

4835 Any person who shall operate any aircraft within the airspace over, above, or upon the lands or
4836 waters of this Commonwealth, while under the influence of intoxicating liquor or of any narcotic or

4837 marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a state
4838 correctional facility not less than one nor more than five years, or, in the discretion of the court or jury
4839 trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or both
4840 such fine and imprisonment.

4841 Any person who shall operate any aircraft within the airspace over, above, or upon the lands or
4842 waters of this Commonwealth carelessly or heedlessly in willful or wanton disregard of the rights or safety
4843 of others, or without due caution and circumspection and in a manner so as to endanger any person or
4844 property, ~~shall be~~ is guilty of a misdemeanor.

4845 **§ 6.2-107.1. Financial services for licensed marijuana establishments.**

4846 A. As used in this section, "licensed" has the same meaning as provided in § 4.1-600 and
4847 "marijuana establishment" has the same meaning as provided in § 4.1-600.

4848 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
4849 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
4850 any state law or regulation solely for providing such a financial service or for further investing any income
4851 derived from such a financial service.

4852 C. Nothing in this section shall require a bank or credit union to provide financial services to a
4853 licensed marijuana establishment.

4854 **§ 9.1-101. (Effective until March 1, 2021) Definitions.**

4855 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context
4856 requires a different meaning:

4857 "Administration of criminal justice" means performance of any activity directly involving the
4858 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
4859 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
4860 storage, and dissemination of criminal history record information.

4861 "Board" means the Criminal Justice Services Board.

4862 "Conviction data" means information in the custody of any criminal justice agency relating to a
4863 judgment of conviction, and the consequences arising therefrom, in any court.

4864 "Correctional status information" means records and data concerning each condition of a convicted
4865 person's custodial status, including probation, confinement, work release, study release, escape, or
4866 termination of custody through expiration of sentence, parole, pardon, or court decision.

4867 "Criminal history record information" means records and data collected by criminal justice
4868 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
4869 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
4870 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
4871 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
4872 status information.

4873 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
4874 which as its principal function performs the administration of criminal justice and any other agency or
4875 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
4876 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
4877 the context of its criminal justice activities, employs special conservators of the peace appointed under
4878 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
4879 its officers or special conservators to meet compulsory training standards established by the Criminal
4880 Justice Services Board and submits reports of compliance with the training standards and (b) the private
4881 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
4882 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
4883 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
4884 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
4885 Violent Predators Act (§ 37.2-900 et seq.).

4886 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
4887 to § 18.2-271.2.

4888 "Criminal justice agency" includes the Department of Criminal Justice Services.

4889 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

4890 "Criminal justice agency" includes the Virginia State Crime Commission.

4891 "Criminal justice information system" means a system including the equipment, facilities,
4892 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
4893 dissemination of criminal history record information. The operations of the system may be performed
4894 manually or by using electronic computers or other automated data processing equipment.

4895 "Department" means the Department of Criminal Justice Services.

4896 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
4897 means. The term shall not include access to the information by officers or employees of a criminal justice
4898 agency maintaining the information who have both a need and right to know the information.

4899 "Law-enforcement officer" means any full-time or part-time employee of a police department or
4900 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
4901 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
4902 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
4903 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage and Cannabis
4904 Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
4905 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
4906 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security
4907 division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
4908 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
4909 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
4910 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
4911 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated
4912 by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior
4913 affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority
4914 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department
4915 of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a
4916 private police department. Part-time employees are those compensated officers who are not full-time
4917 employees as defined by the employing police department, sheriff's office, or private police department.

4918 "Private police department" means any police department, other than a department that employs
4919 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
4920 authorized by statute or an act of assembly to establish a private police department or such entity's
4921 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
4922 to operate a private police department or represent that it is a private police department unless such entity
4923 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
4924 that has been authorized pursuant to this section, provided it complies with the requirements set forth
4925 herein. The authority of a private police department shall be limited to real property owned, leased, or
4926 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
4927 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
4928 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
4929 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
4930 with the private police department that addresses the duties and responsibilities of the private police
4931 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
4932 departments and private police officers shall be subject to and comply with the Constitution of the United
4933 States; the Constitution of Virginia; the laws governing municipal police departments, including the
4934 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any
4935 regulations adopted by the Board that the Department designates as applicable to private police
4936 departments. Any person employed as a private police officer pursuant to this section shall meet all
4937 requirements, including the minimum compulsory training requirements, for law-enforcement officers
4938 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
4939 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
4940 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
4941 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
4942 locality. An authorized private police department may use the word "police" to describe its sworn officers
4943 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
4944 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not

4945 otherwise established by statute or an act of assembly and whose status as a private police department was
4946 recognized by the Department at that time is hereby validated and may continue to operate as a private
4947 police department as may such entity's successor in interest, provided it complies with the requirements
4948 set forth herein.

4949 "School resource officer" means a certified law-enforcement officer hired by the local law-
4950 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
4951 secondary schools.

4952 "School security officer" means an individual who is employed by the local school board or a
4953 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
4954 investigating violations of the policies of the school board or the private or religious school, and detaining
4955 students violating the law or the policies of the school board or the private or religious school on school
4956 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
4957 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

4958 "Unapplied criminal history record information" means information pertaining to criminal
4959 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
4960 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
4961 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
4962 the content of the submitted information.

4963 **§ 9.1-101. (Effective March 1, 2021) Definitions.**

4964 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context
4965 requires a different meaning:

4966 "Administration of criminal justice" means performance of any activity directly involving the
4967 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
4968 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
4969 storage, and dissemination of criminal history record information.

4970 "Board" means the Criminal Justice Services Board.

4971 "Conviction data" means information in the custody of any criminal justice agency relating to a
4972 judgment of conviction, and the consequences arising therefrom, in any court.

4973 "Correctional status information" means records and data concerning each condition of a convicted
4974 person's custodial status, including probation, confinement, work release, study release, escape, or
4975 termination of custody through expiration of sentence, parole, pardon, or court decision.

4976 "Criminal history record information" means records and data collected by criminal justice
4977 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
4978 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
4979 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
4980 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
4981 status information.

4982 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
4983 which as its principal function performs the administration of criminal justice and any other agency or
4984 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
4985 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
4986 the context of its criminal justice activities, employs special conservators of the peace appointed under
4987 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
4988 its officers or special conservators to meet compulsory training standards established by the Criminal
4989 Justice Services Board and submits reports of compliance with the training standards and (b) the private
4990 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
4991 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
4992 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
4993 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
4994 Violent Predators Act (§ 37.2-900 et seq.).

4995 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
4996 to § 18.2-271.2.

4997 "Criminal justice agency" includes the Department of Criminal Justice Services.

4998 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

4999 "Criminal justice agency" includes the Virginia State Crime Commission.

5000 "Criminal justice information system" means a system including the equipment, facilities,
5001 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
5002 dissemination of criminal history record information. The operations of the system may be performed
5003 manually or by using electronic computers or other automated data processing equipment.

5004 "Department" means the Department of Criminal Justice Services.

5005 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
5006 means. The term shall not include access to the information by officers or employees of a criminal justice
5007 agency maintaining the information who have both a need and right to know the information.

5008 "Law-enforcement officer" means any full-time or part-time employee of a police department or
5009 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
5010 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
5011 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
5012 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage and Cannabis
5013 Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
5014 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
5015 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security
5016 division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
5017 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
5018 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
5019 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
5020 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated
5021 by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior
5022 affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority
5023 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department
5024 of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a

5025 private police department. Part-time employees are those compensated officers who are not full-time
5026 employees as defined by the employing police department, sheriff's office, or private police department.

5027 "Private police department" means any police department, other than a department that employs
5028 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
5029 authorized by statute or an act of assembly to establish a private police department or such entity's
5030 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
5031 to operate a private police department or represent that it is a private police department unless such entity
5032 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
5033 that has been authorized pursuant to this section, provided it complies with the requirements set forth
5034 herein. The authority of a private police department shall be limited to real property owned, leased, or
5035 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
5036 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
5037 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
5038 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
5039 with the private police department that addresses the duties and responsibilities of the private police
5040 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
5041 departments and private police officers shall be subject to and comply with the Constitution of the United
5042 States; the Constitution of Virginia; the laws governing municipal police departments, including the
5043 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
5044 1722; and any regulations adopted by the Board that the Department designates as applicable to private
5045 police departments. Any person employed as a private police officer pursuant to this section shall meet all
5046 requirements, including the minimum compulsory training requirements, for law-enforcement officers
5047 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
5048 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
5049 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
5050 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
5051 locality. An authorized private police department may use the word "police" to describe its sworn officers

5052 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
5053 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
5054 otherwise established by statute or an act of assembly and whose status as a private police department was
5055 recognized by the Department at that time is hereby validated and may continue to operate as a private
5056 police department as may such entity's successor in interest, provided it complies with the requirements
5057 set forth herein.

5058 "School resource officer" means a certified law-enforcement officer hired by the local law-
5059 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
5060 secondary schools.

5061 "School security officer" means an individual who is employed by the local school board or a
5062 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
5063 investigating violations of the policies of the school board or the private or religious school, and detaining
5064 students violating the law or the policies of the school board or the private or religious school on school
5065 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
5066 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

5067 "Unapplied criminal history record information" means information pertaining to criminal
5068 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
5069 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
5070 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
5071 the content of the submitted information.

5072 **§ 9.1-102. (Effective until March 1, 2021) Powers and duties of the Board and the**
5073 **Department.**

5074 The Department, under the direction of the Board, which shall be the policy-making body for
5075 carrying out the duties and powers hereunder, shall have the power and duty to:

- 5076 1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the
5077 administration of this chapter including the authority to require the submission of reports and information
5078 by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the

5079 privacy, confidentiality, and security of criminal justice information shall be submitted for review and
5080 comment to any board, commission, or committee or other body which may be established by the General
5081 Assembly to regulate the privacy, confidentiality, and security of information collected and maintained
5082 by the Commonwealth or any political subdivision thereof;

5083 2. Establish compulsory minimum training standards subsequent to employment as a law-
5084 enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the
5085 time required for completion of such training;

5086 3. Establish minimum training standards and qualifications for certification and recertification for
5087 law-enforcement officers serving as field training officers;

5088 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses
5089 and programs for schools, whether located in or outside the Commonwealth, which are operated for the
5090 specific purpose of training law-enforcement officers;

5091 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize
5092 radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in §
5093 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum
5094 qualifications for certification and recertification of instructors who provide such training;

5095 6. [Repealed];

5096 7. Establish compulsory minimum entry-level, in-service and advanced training standards for those
5097 persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-
5098 120, and to establish the time required for completion of such training;

5099 8. Establish compulsory minimum entry-level, in-service and advanced training standards for
5100 deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time
5101 required for the completion of such training;

5102 9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well
5103 as the time required for completion of such training, for persons employed as deputy sheriffs and jail
5104 officers by local criminal justice agencies and correctional officers employed by the Department of
5105 Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of

5106 Corrections, such standards shall include training on the general care of pregnant women, the impact of
5107 restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary
5108 confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

5109 10. Establish compulsory minimum training standards for all dispatchers employed by or in any
5110 local or state government agency, whose duties include the dispatching of law-enforcement personnel.
5111 Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

5112 11. Establish compulsory minimum training standards for all auxiliary police officers employed
5113 by or in any local or state government agency. Such training shall be graduated and based on the type of
5114 duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary
5115 police officers exempt pursuant to § 15.2-1731;

5116 12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other
5117 state and federal governmental agencies, and institutions of higher education within or outside the
5118 Commonwealth, concerning the development of police training schools and programs or courses of
5119 instruction;

5120 13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
5121 for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent
5122 the holding of any such school whether approved or not;

5123 14. Establish and maintain police training programs through such agencies and institutions as the
5124 Board deems appropriate;

5125 15. Establish compulsory minimum qualifications of certification and recertification for instructors
5126 in criminal justice training schools approved by the Department;

5127 16. Conduct and stimulate research by public and private agencies which shall be designed to
5128 improve police administration and law enforcement;

5129 17. Make recommendations concerning any matter within its purview pursuant to this chapter;

5130 18. Coordinate its activities with those of any interstate system for the exchange of criminal history
5131 record information, nominate one or more of its members to serve upon the council or committee of any
5132 such system, and participate when and as deemed appropriate in any such system's activities and programs;

5133 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
5134 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
5135 submit information, reports, and statistical data with respect to its policy and operation of information
5136 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
5137 information and correctional status information, and such criminal justice agencies shall submit such
5138 information, reports, and data as are reasonably required;

5139 20. Conduct audits as required by § 9.1-131;

5140 21. Conduct a continuing study and review of questions of individual privacy and confidentiality
5141 of criminal history record information and correctional status information;

5142 22. Advise criminal justice agencies and initiate educational programs for such agencies with
5143 respect to matters of privacy, confidentiality, and security as they pertain to criminal history record
5144 information and correctional status information;

5145 23. Maintain a liaison with any board, commission, committee, or other body which may be
5146 established by law, executive order, or resolution to regulate the privacy and security of information
5147 collected by the Commonwealth or any political subdivision thereof;

5148 24. Adopt regulations establishing guidelines and standards for the collection, storage, and
5149 dissemination of criminal history record information and correctional status information, and the privacy,
5150 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
5151 court orders;

5152 25. Operate a statewide criminal justice research center, which shall maintain an integrated
5153 criminal justice information system, produce reports, provide technical assistance to state and local
5154 criminal justice data system users, and provide analysis and interpretation of criminal justice statistical
5155 information;

5156 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
5157 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
5158 update that plan;

5159 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
5160 Commonwealth, and units of general local government, or combinations thereof, including planning
5161 district commissions, in planning, developing, and administering programs, projects, comprehensive
5162 plans, and other activities for improving law enforcement and the administration of criminal justice
5163 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

5164 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects
5165 and activities for the Commonwealth and units of general local government, or combinations thereof, in
5166 the Commonwealth, designed to strengthen and improve law enforcement and the administration of
5167 criminal justice at every level throughout the Commonwealth;

5168 29. Review and evaluate programs, projects, and activities, and recommend, where necessary,
5169 revisions or alterations to such programs, projects, and activities for the purpose of improving law
5170 enforcement and the administration of criminal justice;

5171 30. Coordinate the activities and projects of the state departments, agencies, and boards of the
5172 Commonwealth and of the units of general local government, or combination thereof, including planning
5173 district commissions, relating to the preparation, adoption, administration, and implementation of
5174 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
5175 justice;

5176 31. Do all things necessary on behalf of the Commonwealth and its units of general local
5177 government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets
5178 Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for
5179 strengthening and improving law enforcement, the administration of criminal justice, and delinquency
5180 prevention and control;

5181 32. Receive, administer, and expend all funds and other assistance available to the Board and the
5182 Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets
5183 Act of 1968, as amended;

5184 33. Apply for and accept grants from the United States government or any other source in carrying
5185 out the purposes of this chapter and accept any and all donations both real and personal, and grants of

5186 money from any governmental unit or public agency, or from any institution, person, firm or corporation,
5187 and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be
5188 detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature
5189 of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be
5190 deposited in the state treasury to the account of the Department. To these ends, the Board shall have the
5191 power to comply with conditions and execute such agreements as may be necessary;

5192 34. Make and enter into all contracts and agreements necessary or incidental to the performance
5193 of its duties and execution of its powers under this chapter, including but not limited to, contracts with the
5194 United States, units of general local government or combinations thereof, in Virginia or other states, and
5195 with agencies and departments of the Commonwealth;

5196 35. Adopt and administer reasonable regulations for the planning and implementation of programs
5197 and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth
5198 and to units of general local government, and for carrying out the purposes of this chapter and the powers
5199 and duties set forth herein;

5200 36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-
5201 1707;

5202 37. Establish training standards and publish and periodically update model policies for law-
5203 enforcement personnel in the following subjects:

5204 a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including
5205 standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The
5206 Department shall provide technical support and assistance to law-enforcement agencies in carrying out
5207 the requirements set forth in subsection A of § 9.1-1301;

5208 b. Communication with and facilitation of the safe return of individuals diagnosed with
5209 Alzheimer's disease;

5210 c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

5211 d. Protocols for local and regional sexual assault response teams;

5212 e. Communication of death notifications;

5213 f. The questioning of individuals suspected of driving while intoxicated concerning the physical
5214 location of such individual's last consumption of an alcoholic beverage and the communication of such
5215 information to the Virginia Alcoholic Beverage and Cannabis Control Authority;

5216 g. Vehicle patrol duties that embody current best practices for pursuits and for responding to
5217 emergency calls;

5218 h. Criminal investigations that embody current best practices for conducting photographic and live
5219 lineups;

5220 i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of
5221 human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or
5222 street patrol duties; and

5223 j. Missing children, missing adults, and search and rescue protocol;

5224 38. Establish compulsory training standards for basic training and the recertification of law-
5225 enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased
5226 policing;

5227 39. Review and evaluate community-policing programs in the Commonwealth, and recommend
5228 where necessary statewide operating procedures, guidelines, and standards which strengthen and improve
5229 such programs, including sensitivity to and awareness of cultural diversity and the potential for biased
5230 policing;

5231 40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation
5232 with Virginia law-enforcement agencies, provide technical assistance and administrative support,
5233 including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The
5234 Center may provide accreditation assistance and training, resource material, and research into methods
5235 and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
5236 accreditation status;

5237 41. Promote community policing philosophy and practice throughout the Commonwealth by
5238 providing community policing training and technical assistance statewide to all law-enforcement agencies,
5239 community groups, public and private organizations and citizens; developing and distributing innovative

5240 policing curricula and training tools on general community policing philosophy and practice and
5241 contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
5242 organizations with specific community policing needs; facilitating continued development and
5243 implementation of community policing programs statewide through discussion forums for community
5244 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
5245 initiative; and serving as a statewide information source on the subject of community policing including,
5246 but not limited to periodic newsletters, a website and an accessible lending library;

5247 42. Establish, in consultation with the Department of Education and the Virginia State Crime
5248 Commission, compulsory minimum standards for employment and job-entry and in-service training
5249 curricula and certification requirements for school security officers, including school security officers
5250 described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the
5251 Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards
5252 shall be specific to the role and responsibility of school security officers and shall include (i) relevant state
5253 and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school
5254 environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical
5255 alternative to restraint; (v) disaster and emergency response; (vi) awareness of cultural diversity and
5256 implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders,
5257 and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent
5258 development and brain research. The Department shall establish an advisory committee consisting of local
5259 school board representatives, principals, superintendents, and school security personnel to assist in the
5260 development of the standards and certification requirements in this subdivision. The Department shall
5261 require any school security officer who carries a firearm in the performance of his duties to provide proof
5262 that he has completed a training course provided by a federal, state, or local law-enforcement agency that
5263 includes training in active shooter emergency response, emergency evacuation procedure, and threat
5264 assessment;

5265 43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
5266 Article 11 (§ 9.1-185 et seq.);

5267 44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

5268 45. In conjunction with the Virginia State Police and the State Compensation Board, advise
5269 criminal justice agencies regarding the investigation, registration, and dissemination of information
5270 requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et
5271 seq.);

5272 46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training
5273 curricula, and (iii) certification requirements for campus security officers. Such training standards shall
5274 include, but not be limited to, the role and responsibility of campus security officers, relevant state and
5275 federal laws, school and personal liability issues, security awareness in the campus environment, and
5276 disaster and emergency response. The Department shall provide technical support and assistance to
5277 campus police departments and campus security departments on the establishment and implementation of
5278 policies and procedures, including but not limited to: the management of such departments, investigatory
5279 procedures, judicial referrals, the establishment and management of databases for campus safety and
5280 security information sharing, and development of uniform record keeping for disciplinary records and
5281 statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall
5282 establish an advisory committee consisting of college administrators, college police chiefs, college
5283 security department chiefs, and local law-enforcement officials to assist in the development of the
5284 standards and certification requirements and training pursuant to this subdivision;

5285 47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs
5286 established pursuant to § 9.1-187;

5287 48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
5288 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
5289 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

5290 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of §
5291 46.2-117;

5292 50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional
5293 Standards Committee by providing technical assistance and administrative support, including staffing, for
5294 the Committee;

5295 51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards
5296 to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

5297 52. In consultation with the State Council of Higher Education for Virginia and the Virginia
5298 Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-
5299 informed sexual assault investigation;

5300 53. In consultation with the Department of Behavioral Health and Developmental Services,
5301 develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail
5302 officers, administrators, or superintendents in any local or regional jail. Such program shall be based on
5303 any existing addiction recovery programs that are being administered by any local or regional jails in the
5304 Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such
5305 program may address aspects of the recovery process, including medical and clinical recovery, peer-to-
5306 peer support, availability of mental health resources, family dynamics, and aftercare aspects of the
5307 recovery process;

5308 54. Establish compulsory minimum training standards for certification and recertification of law-
5309 enforcement officers serving as school resource officers. Such training shall be specific to the role and
5310 responsibility of a law-enforcement officer working with students in a school environment and shall
5311 include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness
5312 in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v)
5313 disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with
5314 students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences;
5315 and (viii) student behavioral dynamics, including current child and adolescent development and brain
5316 research;

5317 55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-
5318 1723.1 that also addresses the storage and maintenance of body-worn camera system records;

5319 56. Establish compulsory minimum training standards for detector canine handlers employed by
5320 the Department of Corrections, standards for the training and retention of detector canines used by the
5321 Department of Corrections, and a central database on the performance and effectiveness of such detector
5322 canines that requires the Department of Corrections to submit comprehensive information on each canine
5323 handler and detector canine, including the number and types of calls and searches, substances searched
5324 for and whether or not detected, and the number of false positives, false negatives, true positives, and true
5325 negatives;

5326 57. Establish compulsory training standards for basic training of law-enforcement officers for
5327 recognizing and managing stress, self-care techniques, and resiliency; and

5328 58. Perform such other acts as may be necessary or convenient for the effective performance of its
5329 duties.

5330 **§ 9.1-102. (Effective March 1, 2021) Powers and duties of the Board and the Department.**

5331 The Department, under the direction of the Board, which shall be the policy-making body for
5332 carrying out the duties and powers hereunder, shall have the power and duty to:

5333 1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the
5334 administration of this chapter including the authority to require the submission of reports and information
5335 by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the
5336 privacy, confidentiality, and security of criminal justice information shall be submitted for review and
5337 comment to any board, commission, or committee or other body which may be established by the General
5338 Assembly to regulate the privacy, confidentiality, and security of information collected and maintained
5339 by the Commonwealth or any political subdivision thereof;

5340 2. Establish compulsory minimum training standards subsequent to employment as a law-
5341 enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the
5342 time required for completion of such training. Such compulsory minimum training standards shall include
5343 crisis intervention training in accordance with clause (i) of § 9.1-188;

5344 3. Establish minimum training standards and qualifications for certification and recertification for
5345 law-enforcement officers serving as field training officers;

5346 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses
5347 and programs for schools, whether located in or outside the Commonwealth, which are operated for the
5348 specific purpose of training law-enforcement officers;

5349 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize
5350 radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in §
5351 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum
5352 qualifications for certification and recertification of instructors who provide such training;

5353 6. [Repealed];

5354 7. Establish compulsory minimum entry-level, in-service and advanced training standards for those
5355 persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-
5356 120, and to establish the time required for completion of such training;

5357 8. Establish compulsory minimum entry-level, in-service and advanced training standards for
5358 deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time
5359 required for the completion of such training;

5360 9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well
5361 as the time required for completion of such training, for persons employed as deputy sheriffs and jail
5362 officers by local criminal justice agencies and correctional officers employed by the Department of
5363 Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of
5364 Corrections, such standards shall include training on the general care of pregnant women, the impact of
5365 restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary
5366 confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

5367 10. Establish compulsory minimum training standards for all dispatchers employed by or in any
5368 local or state government agency, whose duties include the dispatching of law-enforcement personnel.
5369 Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

5370 11. Establish compulsory minimum training standards for all auxiliary police officers employed
5371 by or in any local or state government agency. Such training shall be graduated and based on the type of

5372 duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary
5373 police officers exempt pursuant to § 15.2-1731;

5374 12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other
5375 state and federal governmental agencies, and institutions of higher education within or outside the
5376 Commonwealth, concerning the development of police training schools and programs or courses of
5377 instruction;

5378 13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
5379 for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent
5380 the holding of any such school whether approved or not;

5381 14. Establish and maintain police training programs through such agencies and institutions as the
5382 Board deems appropriate;

5383 15. Establish compulsory minimum qualifications of certification and recertification for instructors
5384 in criminal justice training academies approved by the Department;

5385 16. Conduct and stimulate research by public and private agencies which shall be designed to
5386 improve police administration and law enforcement;

5387 17. Make recommendations concerning any matter within its purview pursuant to this chapter;

5388 18. Coordinate its activities with those of any interstate system for the exchange of criminal history
5389 record information, nominate one or more of its members to serve upon the council or committee of any
5390 such system, and participate when and as deemed appropriate in any such system's activities and programs;

5391 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
5392 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
5393 submit information, reports, and statistical data with respect to its policy and operation of information
5394 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
5395 information and correctional status information, and such criminal justice agencies shall submit such
5396 information, reports, and data as are reasonably required;

5397 20. Conduct audits as required by § 9.1-131;

5398 21. Conduct a continuing study and review of questions of individual privacy and confidentiality
5399 of criminal history record information and correctional status information;

5400 22. Advise criminal justice agencies and initiate educational programs for such agencies with
5401 respect to matters of privacy, confidentiality, and security as they pertain to criminal history record
5402 information and correctional status information;

5403 23. Maintain a liaison with any board, commission, committee, or other body which may be
5404 established by law, executive order, or resolution to regulate the privacy and security of information
5405 collected by the Commonwealth or any political subdivision thereof;

5406 24. Adopt regulations establishing guidelines and standards for the collection, storage, and
5407 dissemination of criminal history record information and correctional status information, and the privacy,
5408 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
5409 court orders;

5410 25. Operate a statewide criminal justice research center, which shall maintain an integrated
5411 criminal justice information system, produce reports, provide technical assistance to state and local
5412 criminal justice data system users, and provide analysis and interpretation of criminal justice statistical
5413 information;

5414 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
5415 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
5416 update that plan;

5417 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
5418 Commonwealth, and units of general local government, or combinations thereof, including planning
5419 district commissions, in planning, developing, and administering programs, projects, comprehensive
5420 plans, and other activities for improving law enforcement and the administration of criminal justice
5421 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

5422 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects
5423 and activities for the Commonwealth and units of general local government, or combinations thereof, in

5424 the Commonwealth, designed to strengthen and improve law enforcement and the administration of
5425 criminal justice at every level throughout the Commonwealth;

5426 29. Review and evaluate programs, projects, and activities, and recommend, where necessary,
5427 revisions or alterations to such programs, projects, and activities for the purpose of improving law
5428 enforcement and the administration of criminal justice;

5429 30. Coordinate the activities and projects of the state departments, agencies, and boards of the
5430 Commonwealth and of the units of general local government, or combination thereof, including planning
5431 district commissions, relating to the preparation, adoption, administration, and implementation of
5432 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
5433 justice;

5434 31. Do all things necessary on behalf of the Commonwealth and its units of general local
5435 government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets
5436 Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for
5437 strengthening and improving law enforcement, the administration of criminal justice, and delinquency
5438 prevention and control;

5439 32. Receive, administer, and expend all funds and other assistance available to the Board and the
5440 Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets
5441 Act of 1968, as amended;

5442 33. Apply for and accept grants from the United States government or any other source in carrying
5443 out the purposes of this chapter and accept any and all donations both real and personal, and grants of
5444 money from any governmental unit or public agency, or from any institution, person, firm or corporation,
5445 and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be
5446 detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature
5447 of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be
5448 deposited in the state treasury to the account of the Department. To these ends, the Board shall have the
5449 power to comply with conditions and execute such agreements as may be necessary;

5450 34. Make and enter into all contracts and agreements necessary or incidental to the performance
5451 of its duties and execution of its powers under this chapter, including but not limited to, contracts with the
5452 United States, units of general local government or combinations thereof, in Virginia or other states, and
5453 with agencies and departments of the Commonwealth;

5454 35. Adopt and administer reasonable regulations for the planning and implementation of programs
5455 and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth
5456 and to units of general local government, and for carrying out the purposes of this chapter and the powers
5457 and duties set forth herein;

5458 36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-
5459 1707;

5460 37. Establish training standards and publish and periodically update model policies for law-
5461 enforcement personnel in the following subjects:

5462 a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including
5463 standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The
5464 Department shall provide technical support and assistance to law-enforcement agencies in carrying out
5465 the requirements set forth in subsection A of § 9.1-1301;

5466 b. Communication with and facilitation of the safe return of individuals diagnosed with
5467 Alzheimer's disease;

5468 c. Sensitivity to and awareness of systemic and individual racism, cultural diversity, and the
5469 potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include
5470 recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder,
5471 or developmental or cognitive disability;

5472 d. Protocols for local and regional sexual assault response teams;

5473 e. Communication of death notifications;

5474 f. The questioning of individuals suspected of driving while intoxicated concerning the physical
5475 location of such individual's last consumption of an alcoholic beverage and the communication of such
5476 information to the Virginia Alcoholic Beverage and Cannabis Control Authority;

5477 g. Vehicle patrol duties that embody current best practices for pursuits and for responding to
5478 emergency calls;

5479 h. Criminal investigations that embody current best practices for conducting photographic and live
5480 lineups;

5481 i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of
5482 human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or
5483 street patrol duties;

5484 j. Missing children, missing adults, and search and rescue protocol; and

5485 k. The handling and use of tear gas or other gases and kinetic impact munitions, as defined in §
5486 19.2-83.3, that embody current best practices for using such items as a crowd control measure or during
5487 an arrest or detention of another person;

5488 38. Establish compulsory training standards for basic training and the recertification of law-
5489 enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism, cultural
5490 diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1,
5491 which shall include recognizing implicit biases in interacting with persons who have a mental illness,
5492 substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation techniques;
5493 and (iii) training in the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3,
5494 only when necessary to protect the law-enforcement officer or another person;

5495 39. Review and evaluate community-policing programs in the Commonwealth, and recommend
5496 where necessary statewide operating procedures, guidelines, and standards that strengthen and improve
5497 such programs, including sensitivity to and awareness of systemic and individual racism, cultural
5498 diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1,
5499 which shall include recognizing implicit biases in interacting with persons who have a mental illness,
5500 substance use disorder, or developmental or cognitive disability;

5501 40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation
5502 with Virginia law-enforcement agencies, provide technical assistance and administrative support,
5503 including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The

5504 Center may provide accreditation assistance and training, resource material, and research into methods
5505 and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
5506 accreditation status;

5507 41. Promote community policing philosophy and practice throughout the Commonwealth by
5508 providing community policing training and technical assistance statewide to all law-enforcement agencies,
5509 community groups, public and private organizations and citizens; developing and distributing innovative
5510 policing curricula and training tools on general community policing philosophy and practice and
5511 contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
5512 organizations with specific community policing needs; facilitating continued development and
5513 implementation of community policing programs statewide through discussion forums for community
5514 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
5515 initiative; and serving as a statewide information source on the subject of community policing including,
5516 but not limited to periodic newsletters, a website and an accessible lending library;

5517 42. Establish, in consultation with the Department of Education and the Virginia State Crime
5518 Commission, compulsory minimum standards for employment and job-entry and in-service training
5519 curricula and certification requirements for school security officers, including school security officers
5520 described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the
5521 Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards
5522 shall be specific to the role and responsibility of school security officers and shall include (i) relevant state
5523 and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school
5524 environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical
5525 alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and individual
5526 racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health
5527 needs, substance use disorders, and past traumatic experiences; and (viii) student behavioral dynamics,
5528 including child and adolescent development and brain research. The Department shall establish an
5529 advisory committee consisting of local school board representatives, principals, superintendents, and
5530 school security personnel to assist in the development of the standards and certification requirements in

5531 this subdivision. The Department shall require any school security officer who carries a firearm in the
5532 performance of his duties to provide proof that he has completed a training course provided by a federal,
5533 state, or local law-enforcement agency that includes training in active shooter emergency response,
5534 emergency evacuation procedure, and threat assessment;

5535 43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
5536 Article 11 (§ 9.1-185 et seq.);

5537 44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

5538 45. In conjunction with the Virginia State Police and the State Compensation Board, advise
5539 criminal justice agencies regarding the investigation, registration, and dissemination of information
5540 requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et
5541 seq.);

5542 46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training
5543 curricula, and (iii) certification requirements for campus security officers. Such training standards shall
5544 include, but not be limited to, the role and responsibility of campus security officers, relevant state and
5545 federal laws, school and personal liability issues, security awareness in the campus environment, and
5546 disaster and emergency response. The Department shall provide technical support and assistance to
5547 campus police departments and campus security departments on the establishment and implementation of
5548 policies and procedures, including but not limited to: the management of such departments, investigatory
5549 procedures, judicial referrals, the establishment and management of databases for campus safety and
5550 security information sharing, and development of uniform record keeping for disciplinary records and
5551 statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall
5552 establish an advisory committee consisting of college administrators, college police chiefs, college
5553 security department chiefs, and local law-enforcement officials to assist in the development of the
5554 standards and certification requirements and training pursuant to this subdivision;

5555 47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs
5556 established pursuant to § 9.1-187;

5557 48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
5558 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
5559 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

5560 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of §
5561 46.2-117;

5562 50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional
5563 Standards Committee by providing technical assistance and administrative support, including staffing, for
5564 the Committee;

5565 51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards
5566 to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

5567 52. In consultation with the State Council of Higher Education for Virginia and the Virginia
5568 Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-
5569 informed sexual assault investigation;

5570 53. In consultation with the Department of Behavioral Health and Developmental Services,
5571 develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail
5572 officers, administrators, or superintendents in any local or regional jail. Such program shall be based on
5573 any existing addiction recovery programs that are being administered by any local or regional jails in the
5574 Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such
5575 program may address aspects of the recovery process, including medical and clinical recovery, peer-to-
5576 peer support, availability of mental health resources, family dynamics, and aftercare aspects of the
5577 recovery process;

5578 54. Establish compulsory minimum training standards for certification and recertification of law-
5579 enforcement officers serving as school resource officers. Such training shall be specific to the role and
5580 responsibility of a law-enforcement officer working with students in a school environment and shall
5581 include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness
5582 in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v)
5583 disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and

5584 implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders,
5585 or past traumatic experiences; and (viii) student behavioral dynamics, including current child and
5586 adolescent development and brain research;

5587 55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-
5588 1723.1 that also addresses the storage and maintenance of body-worn camera system records;

5589 56. Establish compulsory minimum training standards for detector canine handlers employed by
5590 the Department of Corrections, standards for the training and retention of detector canines used by the
5591 Department of Corrections, and a central database on the performance and effectiveness of such detector
5592 canines that requires the Department of Corrections to submit comprehensive information on each canine
5593 handler and detector canine, including the number and types of calls and searches, substances searched
5594 for and whether or not detected, and the number of false positives, false negatives, true positives, and true
5595 negatives;

5596 57. Establish compulsory training standards for basic training of law-enforcement officers for
5597 recognizing and managing stress, self-care techniques, and resiliency;

5598 58. Establish guidelines and standards for psychological examinations conducted pursuant to
5599 subsection C of § 15.2-1705;

5600 59. Establish compulsory in-service training standards for law-enforcement officers in the
5601 following subjects: (i) relevant state and federal laws; (ii) awareness of cultural diversity and the potential
5602 for bias-based profiling as defined in § 52-30.1; (iii) de-escalation techniques; (iv) working with
5603 individuals with disabilities, mental health needs, or substance use disorders; and (v) the lawful use of
5604 force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-
5605 enforcement officer or another person;

5606 60. Develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-
5607 service, and advanced training standards to be employed by criminal justice training academies approved
5608 by the Department when conducting training;

5609 61. Adopt statewide professional standards of conduct applicable to all certified law-enforcement
5610 officers and certified jail officers and appropriate due process procedures for decertification based on
5611 serious misconduct in violation of those standards;

5612 62. Establish and administer a waiver process, in accordance with §§ 2.2-5515 and 15.2-1721.1,
5613 for law-enforcement agencies to use certain military property. Any waivers granted by the Criminal Justice
5614 Services Board shall be published by the Department on the Department's website;

5615 63. Establish compulsory training standards for basic training and the recertification of law-
5616 enforcement officers to include crisis intervention training in accordance with clause (ii) of § 9.1-188;

5617 64. Advise and assist the Department of Behavioral Health and Developmental Services, and
5618 support local law-enforcement cooperation, with the development and implementation of the Marcus alert
5619 system, as defined in § 37.2-311.1, including the establishment of local protocols for law-enforcement
5620 participation in the Marcus alert system pursuant to § 9.1-193 and for reporting requirements pursuant to
5621 §§ 9.1-193 and 37.2-311.1; and

5622 65. Perform such other acts as may be necessary or convenient for the effective performance of its
5623 duties.

5624 **§ 9.1-400. Title of chapter; definitions.**

5625 A. This chapter shall be known and designated as the Line of Duty Act.

5626 B. As used in this chapter, unless the context requires a different meaning:

5627 "Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under
5628 the will of a deceased person if testate, or as his heirs at law if intestate.

5629 "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line
5630 of duty as the direct or proximate result of the performance of his duty, including the presumptions under
5631 §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute,
5632 as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees
5633 designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations
5634 of the Department of Corrections, employees designated pursuant to § 66-3 to investigate allegations of
5635 criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the

5636 investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate
5637 allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional
5638 officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy
5639 sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of
5640 any fire company or department or emergency medical services agency that has been recognized by an
5641 ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an
5642 integral part of the official safety program of such county, city, or town, including a person with a
5643 recognized membership status with such fire company or department who is enrolled in a Fire Service
5644 Training course offered by the Virginia Department of Fire Programs or any fire company or department
5645 training required in pursuit of qualification to become a certified firefighter; a member of any fire company
5646 providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National
5647 Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is
5648 serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty
5649 under Title 32 of the United States Code; ~~any~~ a special agent of the Virginia Alcoholic Beverage and
5650 Cannabis Control Authority; ~~any~~ a regular or special conservation police officer who receives
5651 compensation from a county, city, or town or from the Commonwealth appointed pursuant to the
5652 provisions of § 29.1-200; ~~any~~ a commissioned forest warden appointed under the provisions of § 10.1-
5653 1135; ~~any~~ a member or employee of the Virginia Marine Resources Commission granted the power of
5654 arrest pursuant to § 28.2-900; ~~any~~ a Department of Emergency Management hazardous materials officer;
5655 any other employee of the Department of Emergency Management who is performing official duties of
5656 the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that
5657 has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28;
5658 ~~any~~ an employee of any county, city, or town performing official emergency management or emergency
5659 services duties in cooperation with the Department of Emergency Management, when those duties are
5660 related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to
5661 exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined
5662 in § 44-146.16, declared by a local governing body; ~~any~~ a nonfirefighter regional hazardous materials

5663 emergency response team member; ~~any~~ a conservation officer of the Department of Conservation and
5664 Recreation commissioned pursuant to § 10.1-115; or ~~any~~ a full-time sworn member of the enforcement
5665 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

5666 "Disabled person" means any individual who has been determined to be mentally or physically
5667 incapacitated so as to prevent the further performance of his duties at the time of his disability where such
5668 incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or
5669 proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2,
5670 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position
5671 listed in the definition of deceased person in this section. "Disabled person" does not include any
5672 individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404.
5673 "Disabled person" includes any state employee included in the definition of a deceased person who was
5674 disabled on or after January 1, 1966.

5675 "Eligible dependent," for purposes of continued health insurance pursuant to § 9.1-401, means the
5676 natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled
5677 person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that
5678 occurred prior to the time of the employee's death or disability and that any such adopted child is (i)
5679 adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or
5680 disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability.
5681 Notwithstanding the foregoing, "eligible dependent" ~~shall also include~~ includes the natural or adopted
5682 child or children of a deceased person or disabled person born as the result of a pregnancy or adoption
5683 that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will
5684 continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible
5685 dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as
5686 determined by the Department of Human Resource Management.

5687 "Eligible spouse," for purposes of continued health insurance pursuant to § 9.1-401, means the
5688 spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will
5689 continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the

5690 spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible
5691 based on the Virginia Administrative Code or administrative guidance as determined by the Department
5692 of Human Resource Management.

5693 "Employee" means any person who would be covered or whose spouse, dependents, or
5694 beneficiaries would be covered under the benefits of this chapter if the person became a disabled person
5695 or a deceased person.

5696 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a
5697 volunteer who is a member of any fire company or department or rescue squad described in the definition
5698 of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire
5699 company or department or rescue squad as an integral part of the official safety program of such locality.

5700 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to §
5701 9.1-400.1.

5702 "Line of duty" means any action the deceased or disabled person was obligated or authorized to
5703 perform by rule, regulation, condition of employment or service, or law.

5704 "LODA Health Benefit Plans" means the separate health benefits plans established pursuant to §
5705 9.1-401.

5706 "Nonparticipating employer" means any employer that is a political subdivision of the
5707 Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not
5708 participate in the Fund.

5709 "Participating employer" means any employer that is a state agency or is a political subdivision of
5710 the Commonwealth that did not make an election to become a nonparticipating employer.

5711 "VRS" means the Virginia Retirement System.

5712 **§ 9.1-500. Definitions.**

5713 As used in this chapter, unless the context requires a different meaning:

5714 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia
5715 Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the
5716 Virginia Alcoholic Beverage and Cannabis Control Authority, the Department of Conservation and

5717 Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police
5718 department of any public institution of higher education of the Commonwealth employing the law-
5719 enforcement officer.

5720 "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent
5721 of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests
5722 and (ii) a nonprobationary officer of one of the following agencies:

5723 ~~a-1.~~ The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources
5724 Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic
5725 Beverage and Cannabis Control Authority, the Department of Motor Vehicles, or the Department of
5726 Conservation and Recreation;

5727 ~~b-2.~~ The police department, bureau or force of any political subdivision or the campus police
5728 department of any public institution of higher education of the Commonwealth where such department,
5729 bureau or force has three or more law-enforcement officers; or

5730 ~~c-3.~~ Any conservation police officer as defined in § 9.1-101.

5731 For the purposes of this chapter, "law-enforcement officer" ~~shall~~ does not include the sheriff's
5732 department of any city or county.

5733 **§ 9.1-801. Public safety officer defined.**

5734 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
5735 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
5736 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
5737 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
5738 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
5739 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of
5740 the official safety program of such county, city, or town; an arson investigator; a member of the Virginia
5741 National Guard or the Virginia Defense Force while such a member is serving in the Virginia National
5742 Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United
5743 States Code; any special agent of the Virginia Alcoholic Beverage and Cannabis Control Authority; any

5744 police agent appointed under the provisions of § 56-353; any regular or special conservation police officer
5745 who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant
5746 to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or
5747 employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-
5748 900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional
5749 hazardous materials emergency response team member; any investigator who is a full-time sworn member
5750 of the security division of the Virginia Lottery; any full-time sworn member of the enforcement division
5751 of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications,
5752 when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions
5753 of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department
5754 of Conservation and Recreation commissioned pursuant to § 10.1-115.

5755 **§ 9.1-1101. Powers and duties of the Department.**

5756 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
5757 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
5758 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,
5759 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
5760 the head of any private police department that has been designated as a criminal justice agency by the
5761 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
5762 matter. The Department shall provide such services to any federal investigatory agency within available
5763 resources.

5764 B. The Department shall:

5765 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
5766 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
5767 Commonwealth as needed;

5768 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
5769 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

5770 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
5771 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
5772 breath; and

5773 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
5774 in substances for the purposes of Title 4.1 and §§ 54.1-3401 and 54.-3446. The testing methodology shall
5775 use post-decarboxylation testing or other equivalent method and shall consider the potential conversion
5776 of tetrahydrocannabinol acid (THC-A) into THC. The test result shall include the total available THC
5777 derived from the sum of the THC and THC-A content.

5778 C. The Department shall have the power and duty to:

5779 1. Receive, administer, and expend all funds and other assistance available for carrying out the
5780 purposes of this chapter;

5781 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
5782 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
5783 United States, units of general local government or combinations thereof in Virginia or other states, and
5784 with agencies and departments of the Commonwealth; and

5785 3. Perform such other acts as may be necessary or convenient for the effective performance of its
5786 duties.

5787 D. The Director may appoint and employ a deputy director and such other personnel as are needed
5788 to carry out the duties and responsibilities conferred by this chapter.

5789 **§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

5790 A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be
5791 required to carry out any duties as a part of his office in civil matters of advising the governing body and
5792 all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing
5793 county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards,
5794 departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of
5795 advising or representing the county or city, its boards, departments, agencies, officials and employees,
5796 except in matters involving the enforcement of the criminal law within the county or city.

5797 B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a
5798 part of the department of law enforcement of the county or city in which he is elected or appointed, and
5799 shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all
5800 warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1,
5801 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in
5802 jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and
5803 carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of ~~§ 18.2-250.1~~, 18.2-
5804 268.3, 29.1-738.2, or 46.2-341.26:3.

5805 **§ 15.2-2288.3. (Effective until July 1, 2021) Licensed farm wineries; local regulation of**
5806 **certain activities.**

5807 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine
5808 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the
5809 citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning
5810 categories. Local restriction upon such activities and events of farm wineries licensed in accordance with
5811 Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic
5812 impact on the farm winery of such restriction, the agricultural nature of such activities and events, and
5813 whether such activities and events are usual and customary for farm wineries throughout the
5814 Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without
5815 local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local
5816 ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm
5817 wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified
5818 music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby
5819 residents.

5820 B, C. [Expired.]

5821 D. No locality may treat private personal gatherings held by the owner of a licensed farm winery
5822 who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner

5823 at which gatherings wine is not sold or marketed and for which no consideration is received by the farm
5824 winery or its agents differently from private personal gatherings by other citizens.

5825 E. No locality shall regulate any of the following activities of a farm winery licensed in accordance
5826 with subdivision 5 of § 4.1-207:

5827 1. The production and harvesting of fruit and other agricultural products and the manufacturing of
5828 wine;

5829 2. The on-premises sale, tasting, or consumption of wine during regular business hours within the
5830 normal course of business of the licensed farm winery;

5831 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title
5832 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
5833 Authority;

5834 4. The sale and shipment of wine to the Virginia Alcoholic Beverage and Cannabis Control
5835 Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of
5836 the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority, and federal
5837 law;

5838 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of
5839 the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority, and federal
5840 law; or

5841 6. The sale of wine-related items that are incidental to the sale of wine.

5842 **§ 15.2-2288.3. (Effective July 1, 2021) Licensed farm wineries; local regulation of certain**
5843 **activities.**

5844 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine
5845 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the
5846 citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning
5847 categories. Local restriction upon such activities and events of farm wineries licensed in accordance with
5848 Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic
5849 impact on the farm winery of such restriction, the agricultural nature of such activities and events, and

5850 whether such activities and events are usual and customary for farm wineries throughout the
5851 Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without
5852 local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local
5853 ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm
5854 wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified
5855 music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby
5856 residents.

5857 B, C. [Expired.]

5858 D. No locality may treat private personal gatherings held by the owner of a licensed farm winery
5859 who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner
5860 at which gatherings wine is not sold or marketed and for which no consideration is received by the farm
5861 winery or its agents differently from private personal gatherings by other citizens.

5862 E. No locality shall regulate any of the following activities of a farm winery licensed in accordance
5863 with subdivision 6 of § 4.1-206.1:

5864 1. The production and harvesting of fruit and other agricultural products and the manufacturing of
5865 wine;

5866 2. The on-premises sale, tasting, or consumption of wine during regular business hours within the
5867 normal course of business of the licensed farm winery;

5868 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title
5869 4.1 and regulations of the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
5870 Authority;

5871 4. The sale and shipment of wine to the Virginia Alcoholic Beverage and Cannabis Control
5872 Authority, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of
5873 the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority, and federal
5874 law;

5875 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of
5876 the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority, and federal
5877 law; or

5878 6. The sale of wine-related items that are incidental to the sale of wine.

5879 **§ 15.2-2288.3:1. (Effective until July 1, 2021) Limited brewery license; local regulation of**
5880 **certain activities.**

5881 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer
5882 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the
5883 citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning
5884 categories. Local restriction upon such activities and public events of breweries licensed pursuant to
5885 subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account
5886 the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities
5887 and events, and whether such activities and events are usual and customary for such licensed breweries.
5888 Usual and customary activities and events at such licensed breweries shall be permitted unless there is a
5889 substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other
5890 than outdoor amplified music, arising from activities and events at such licensed breweries shall be more
5891 restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed
5892 brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

5893 B. No locality shall regulate any of the following activities of a brewery licensed under subdivision
5894 2 of § 4.1-208:

5895 1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products
5896 and the manufacturing of beer;

5897 2. The on-premises sale, tasting, or consumption of beer during regular business hours within the
5898 normal course of business of such licensed brewery;

5899 3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board
5900 of Directors of the Alcoholic Beverage and Cannabis Control Authority;

5901 4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance
5902 with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage and Cannabis Control
5903 Authority, and federal law;

5904 5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of
5905 Directors of the Alcoholic Beverage and Cannabis Control Authority, and federal law; or

5906 6. The sale of beer-related items that are incidental to the sale of beer.

5907 C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208
5908 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade
5909 requirements.

5910 **§ 15.2-2288.3:1. (Effective July 1, 2021) Limited brewery license; local regulation of certain**
5911 **activities.**

5912 A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer
5913 industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the
5914 citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning
5915 categories. Local restriction upon such activities and public events of breweries licensed pursuant to
5916 subdivision 4 of § 4.1-206.1 to market and sell their products shall be reasonable and shall take into
5917 account the economic impact on such licensed brewery of such restriction, the agricultural nature of such
5918 activities and events, and whether such activities and events are usual and customary for such licensed
5919 breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless
5920 there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating
5921 noise, other than outdoor amplified music, arising from activities and events at such licensed breweries
5922 shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music
5923 at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby
5924 residents.

5925 B. No locality shall regulate any of the following activities of a brewery licensed under subdivision
5926 4 of § 4.1-206.1:

5927 1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products
5928 and the manufacturing of beer;

5929 2. The on-premises sale, tasting, or consumption of beer during regular business hours within the
5930 normal course of business of such licensed brewery;

5931 3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Board
5932 of Directors of the Alcoholic Beverage and Cannabis Control Authority;

5933 4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance
5934 with Title 4.1, regulations of the Board of Directors of the Alcoholic Beverage and Cannabis Control
5935 Authority, and federal law;

5936 5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Board of
5937 Directors of the Alcoholic Beverage and Cannabis Control Authority, and federal law; or

5938 6. The sale of beer-related items that are incidental to the sale of beer.

5939 C. Any locality may exempt any brewery licensed in accordance with subdivision 4 of § 4.1-206.1
5940 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade
5941 requirements.

5942 **§ 15.2-2288.3:2. (Effective until July 1, 2021) Limited distiller's license; local regulation of**
5943 **certain activities.**

5944 A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206
5945 to market and sell their products shall be reasonable and shall take into account the economic impact on
5946 such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether
5947 such activities and events are usual and customary for such licensed distilleries. Usual and customary
5948 activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on
5949 the health, safety, or welfare of the public.

5950 B. No locality shall regulate any of the following activities of a distillery licensed under
5951 subdivision 2 of § 4.1-206:

5952 1. The production and harvesting of agricultural products and the manufacturing of alcoholic
5953 beverages other than wine or beer;

5954 2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer
5955 during regular business hours in accordance with a contract between a distillery and the Alcoholic
5956 Beverage and Cannabis Control Board pursuant to the provisions of subsection D of § 4.1-119;

5957 3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers
5958 and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage and
5959 Cannabis Control Board, and federal law;

5960 4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with
5961 Title 4.1, regulations of the Alcoholic Beverage and Cannabis Control Board, and federal law; or

5962 5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the
5963 sale of such alcoholic beverages.

5964 C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206
5965 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade
5966 requirements.

5967 **§ 15.2-2288.3:2. (Effective July 1, 2021) Limited distiller's license; local regulation of certain**
5968 **activities.**

5969 A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206.1
5970 to market and sell their products shall be reasonable and shall take into account the economic impact on
5971 such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether
5972 such activities and events are usual and customary for such licensed distilleries. Usual and customary
5973 activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on
5974 the health, safety, or welfare of the public.

5975 B. No locality shall regulate any of the following activities of a distillery licensed under
5976 subdivision 2 of § 4.1-206.1:

5977 1. The production and harvesting of agricultural products and the manufacturing of alcoholic
5978 beverages other than wine or beer;

5979 2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer
5980 during regular business hours in accordance with a contract between a distillery and the Alcoholic
5981 Beverage and Cannabis Control Board pursuant to the provisions of subsection D of § 4.1-119;

5982 3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers
5983 and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage and
5984 Cannabis Control Board, and federal law;

5985 4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with
5986 Title 4.1, regulations of the Alcoholic Beverage and Cannabis Control Board, and federal law; or

5987 5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the
5988 sale of such alcoholic beverages.

5989 C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206.1
5990 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade
5991 requirements.

5992 **§ 15.2-2820. Definitions.**

5993 As used in this chapter, unless the context requires a different meaning:

5994 "Bar or lounge area" means any establishment or portion of an establishment devoted to the sale
5995 and service of alcoholic beverages for consumption on the premises and where the sale or service of food
5996 or meals is incidental to the consumption of the alcoholic beverages.

5997 "Educational facility" means any building used for instruction of enrolled students, including but
5998 not limited to any day-care center, nursery school, public or private school, institution of higher education,
5999 medical school, law school, or career and technical education school.

6000 "Health care facility" means any institution, place, building, or agency required to be licensed
6001 under Virginia law, including but not limited to any hospital, nursing facility or nursing home, boarding
6002 home, assisted living facility, supervised living facility, or ambulatory medical and surgical center.

6003 "Private club" means an organization, whether incorporated or not, that (i) is the owner, lessee, or
6004 occupant of a building or portion thereof used exclusively for club purposes, including club or member
6005 sponsored events; (ii) is operated solely for recreational, fraternal, social, patriotic, political, benevolent,

6006 or athletic purposes, and only sells alcoholic beverages incidental to its operation; (iii) has established
6007 bylaws, a constitution, or both that govern its activities; and (iv) the affairs and management of which are
6008 conducted by a board of directors, executive committee, or similar body chosen by the members at an
6009 annual meeting.

6010 "Private function" means any gathering of persons for the purpose of deliberation, education,
6011 instruction, entertainment, amusement, or dining that is not intended to be open to the public and for which
6012 membership or specific invitation is a prerequisite to entry.

6013 "Private work place" means any office or work area that is not open to the public in the normal
6014 course of business except by individual invitation.

6015 "Proprietor" means the owner or lessee of the public place, who ultimately controls the activities
6016 within the public place. The term "proprietor" includes corporations, associations, or partnerships as well
6017 as individuals.

6018 "Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass
6019 transportation of persons in intrastate travel for compensation, including but not limited to any airplane,
6020 train, bus, or boat that is not subject to federal smoking regulations.

6021 "Public place" means any enclosed, indoor area used by the general public, including but not
6022 limited to any building owned or leased by the Commonwealth or any agency thereof or any locality,
6023 public conveyance or public vehicle, educational facility, hospital, nursing facility or nursing home, other
6024 health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum,
6025 concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting
6026 room.

6027 "Recreational facility" means any enclosed, indoor area used by the general public and used as a
6028 stadium, arena, skating rink, video game facility, or senior citizen recreational facility.

6029 "Restaurant" means any place where food is prepared for service to the public on or off the
6030 premises, or any place where food is served. Examples of such places include but are not limited to
6031 lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining
6032 accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining

6033 accommodations of public and private schools and colleges, and kitchen areas of local correctional
6034 facilities subject to standards adopted under § 53.1-68. "Restaurant" shall not include (i) places where
6035 packaged or canned foods are manufactured and then distributed to grocery stores or other similar food
6036 retailers for sale to the public, (ii) mobile points of service to the general public that are outdoors, or (iii)
6037 mobile points of service where such service and consumption occur in a private residence or in any
6038 location that is not a public place. "Restaurant" shall include any bar or lounge area that is part of such
6039 restaurant.

6040 "Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any
6041 kind, including marijuana, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling
6042 of smoke from a pipe, cigar, or cigarette of any kind, including marijuana.

6043 "Theater" means any indoor facility or auditorium, open to the public, which is primarily used or
6044 designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture,
6045 or other similar performance.

6046 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
6047 **finer; prepayment of local ordinances.**

6048 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
6049 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
6050 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
6051 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
6052 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
6053 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
6054 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
6055 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
6056 as authorized in § 46.2-878.3.

6057 Such infractions shall not include:

- 6058 1. Indictable offenses;
- 6059 2. [Repealed.]

6060 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
6061 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
6062 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
6063 or in his custody or control;

6064 4. Reckless driving;

6065 5. Leaving the scene of an accident;

6066 6. Driving while under suspension or revocation of driving privileges;

6067 7. Driving without being licensed to drive.

6068 8. [Repealed.]

6069 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
6070 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
6071 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
6072 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
6073 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
6074 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

6075 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
6076 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
6077 be imposed, designating each infraction specifically. The schedule, which may from time to time be
6078 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
6079 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
6080 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
6081 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
6082 with the provisions of this Code or any rules or regulations promulgated thereunder.

6083 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
6084 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
6085 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
6086 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be

6087 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
6088 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
6089 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
6090 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
6091 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
6092 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
6093 provisions of this Code or any rules or regulations promulgated thereunder.

6094 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic**
6095 **infractions, and other violations in district court; additional fees to be added.**

6096 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
6097 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing
6098 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a
6099 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant
6100 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
6101 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-
6102 649, 4.1-664, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of
6103 compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,
6104 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

6105 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
6106 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
6107 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the
6108 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
6109 absence related to that incident. However, when a defendant who has multiple charges arising from the
6110 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
6111 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
6112 between the fixed fee earlier assessed and the higher fixed fee.

6113 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
6114 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

6115 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
6116 shall also assess any costs otherwise specifically provided by statute.

6117 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
6118 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
6119 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
6120 designated:

- 6121 1. Processing fee (General Fund) (.573770);
- 6122 2. Virginia Crime Victim-Witness Fund (.049180);
- 6123 3. Regional Criminal Justice Training Academies Fund (.016393);
- 6124 4. Courthouse Construction/Maintenance Fund (.032787);
- 6125 5. Criminal Injuries Compensation Fund (.098361);
- 6126 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 6127 7. Sentencing/supervision fee (General Fund) (.131148); and
- 6128 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

6129 C. In criminal actions and proceedings in district court for a violation of any provision of Article
6130 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
6131 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
6132 the following funds in the fractional amounts designated:

- 6133 1. Processing fee (General Fund) (.257353);
- 6134 2. Virginia Crime Victim-Witness Fund (.022059);
- 6135 3. Regional Criminal Justice Training Academies Fund (.007353);
- 6136 4. Courthouse Construction/Maintenance Fund (.014706);
- 6137 5. Criminal Injuries Compensation Fund (.044118);
- 6138 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 6139 7. Drug Offender Assessment and Treatment Fund (.551471);

6140 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and

6141 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

6142 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
6143 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
6144 to the following funds in the fractional amounts designated:

6145 1. Processing fee (General Fund) (.764706);

6146 2. Virginia Crime Victim-Witness Fund (.058824);

6147 3. Regional Criminal Justice Training Academies Fund (.019608);

6148 4. Courthouse Construction/Maintenance Fund (.039216);

6149 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and

6150 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

6151 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions and**
6152 **other violations in district court; additional fees to be added.**

6153 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
6154 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing
6155 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a
6156 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant
6157 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver
6158 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-
6159 649, 4.1-664, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi)
6160 proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-
6161 716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

6162 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
6163 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such
6164 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the
6165 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in
6166 absence related to that incident. However, when a defendant who has multiple charges arising from the

6167 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another
6168 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference
6169 between the fixed fee earlier assessed and the higher fixed fee.

6170 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
6171 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

6172 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk
6173 shall also assess any costs otherwise specifically provided by statute.

6174 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection
6175 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
6176 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
6177 designated:

- 6178 1. Processing fee (General Fund) (.573770);
- 6179 2. Virginia Crime Victim-Witness Fund (.049180);
- 6180 3. Regional Criminal Justice Training Academies Fund (.016393);
- 6181 4. Courthouse Construction/Maintenance Fund (.032787);
- 6182 5. Criminal Injuries Compensation Fund (.098361);
- 6183 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 6184 7. Sentencing/supervision fee (General Fund)(.131148); and
- 6185 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

6186 C. In criminal actions and proceedings in district court for a violation of any provision of Article
6187 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
6188 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
6189 the following funds in the fractional amounts designated:

- 6190 1. Processing fee (General Fund) (.257353);
- 6191 2. Virginia Crime Victim-Witness Fund (.022059);
- 6192 3. Regional Criminal Justice Training Academies Fund (.007353);
- 6193 4. Courthouse Construction/Maintenance Fund (.014706);

- 6194 5. Criminal Injuries Compensation Fund (.044118);
- 6195 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 6196 7. Drug Offender Assessment and Treatment Fund (.551471);
- 6197 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
- 6198 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

6199 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
 6200 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,
 6201 to the following funds in the fractional amounts designated:

- 6202 1. Processing fee (General Fund) (.764706);
- 6203 2. Virginia Crime Victim-Witness Fund (.058824);
- 6204 3. Regional Criminal Justice Training Academies Fund (.019608);
- 6205 4. Courthouse Construction/Maintenance Fund (.039216);
- 6206 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 6207 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

6208 **§ 16.1-228. Definitions.**

6209 As used in this chapter, unless the context requires a different meaning:

6210 "Abused or neglected child" means any child:

- 6211 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
 6212 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
 6213 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental
 6214 functions, including, but not limited to, a child who is with his parent or other person responsible for his
 6215 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance,
 6216 or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his
 6217 care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony
 6218 violation of § 18.2-248;

- 6219 2. Whose parents or other person responsible for his care neglects or refuses to provide care
 6220 necessary for his health; however, no child who in good faith is under treatment solely by spiritual means

6221 through prayer in accordance with the tenets and practices of a recognized church or religious
6222 denomination shall for that reason alone be considered to be an abused or neglected child;

6223 3. Whose parents or other person responsible for his care abandons such child;

6224 4. Whose parents or other person responsible for his care commits or allows to be committed any
6225 sexual act upon a child in violation of the law;

6226 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental
6227 or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco
6228 parentis;

6229 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
6230 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
6231 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the
6232 parent or other person responsible for his care knows has been convicted of an offense against a minor for
6233 which registration is required as a Tier III offender pursuant to § 9.1-902; or

6234 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined
6235 in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal
6236 Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

6237 If a civil proceeding under this chapter is based solely on the parent having left the child at a
6238 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely
6239 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency
6240 medical services agency that employs emergency medical services personnel, within 14 days of the child's
6241 birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the
6242 court may find such a child is a neglected child upon the ground of abandonment.

6243 "Adoptive home" means the place of residence of any natural person in which a child resides as a
6244 member of the household and in which he has been placed for the purposes of adoption or in which he has
6245 been legally adopted by another member of the household.

6246 "Adult" means a person 18 years of age or older.

6247 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part
6248 of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent
6249 act that would be a felony if committed by an adult.

6250 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly
6251 structured components including, but not limited to, military style drill and ceremony, physical labor,
6252 education and rigid discipline, and no less than six months of intensive aftercare.

6253 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for
6254 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title
6255 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

6256 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or
6257 results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of
6258 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
6259 physical safety of another person; however, no child who in good faith is under treatment solely by
6260 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
6261 religious denomination shall for that reason alone be considered to be a child in need of services, nor shall
6262 any child who habitually remains away from or habitually deserts or abandons his family as a result of
6263 what the court or the local child protective services unit determines to be incidents of physical, emotional
6264 or sexual abuse in the home be considered a child in need of services for that reason alone.

6265 However, to find that a child falls within these provisions, (i) the conduct complained of must
6266 present a clear and substantial danger to the child's life or health or to the life or health of another person,
6267 (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,
6268 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed
6269 by the child or his family.

6270 "Child in need of supervision" means:

6271 1. A child who, while subject to compulsory school attendance, is habitually and without
6272 justification absent from school, and (i) the child has been offered an adequate opportunity to receive the
6273 benefit of any and all educational services and programs that are required to be provided by law and which

6274 meet the child's particular educational needs, (ii) the school system from which the child is absent or other
6275 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
6276 and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-
6277 258; or

6278 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian
6279 or placement authority, remains away from or deserts or abandons his family or lawful custodian on more
6280 than one occasion or escapes or remains away without proper authority from a residential care facility in
6281 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the
6282 child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
6283 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
6284 rehabilitation or services needed by the child or his family.

6285 "Child welfare agency" means a child-placing agency, child-caring institution or independent
6286 foster home as defined in § 63.2-100.

6287 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the
6288 juvenile and domestic relations district court of each county or city.

6289 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
6290 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-
6291 308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other
6292 than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed
6293 by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a breath
6294 test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. ~~For purposes of §§~~
6295 ~~16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of §~~
6296 ~~18.2-250.1.~~

6297 "Delinquent child" means a child who has committed a delinquent act or an adult who has
6298 committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court
6299 has been terminated under the provisions of § 16.1-269.6.

6300 "Department" means the Department of Juvenile Justice and "Director" means the administrative
6301 head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
6302 duties imposed upon him under this law.

6303 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2,
6304 or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the
6305 highways.

6306 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
6307 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
6308 a person against such person's family or household member. Such act includes, but is not limited to, any
6309 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter
6310 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
6311 apprehension of death, sexual assault, or bodily injury.

6312 "Family or household member" means (i) the person's spouse, whether or not he or she resides in
6313 the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the
6314 same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
6315 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
6316 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-
6317 law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual
6318 who has a child in common with the person, whether or not the person and that individual have been
6319 married or have resided together at any time, or (vi) any individual who cohabits or who, within the
6320 previous 12 months, cohabited with the person, and any children of either of them then residing in the
6321 same home with the person.

6322 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
6323 established relationship with the child or his family.

6324 "Foster care services" means the provision of a full range of casework, treatment and community
6325 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in
6326 need of services as defined in this section and his family when the child (i) has been identified as needing

6327 services to prevent or eliminate the need for foster care placement, (ii) has been placed through an
6328 agreement between the local board of social services or a public agency designated by the community
6329 policy and management team and the parents or guardians where legal custody remains with the parents
6330 or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare
6331 agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-
6332 293.

6333 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
6334 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
6335 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed
6336 to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile
6337 Justice, in a living arrangement in which such child or person does not have daily substitute parental
6338 supervision.

6339 "Independent living services" means services and activities provided to a child in foster care 14
6340 years of age or older and who has been committed or entrusted to a local board of social services, child
6341 welfare agency, or private child-placing agency. "Independent living services" may also mean services
6342 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
6343 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment
6344 to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a
6345 child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
6346 Department of Juvenile Justice immediately prior to placement in an independent living arrangement.
6347 "Independent living services" includes counseling, education, housing, employment, and money
6348 management skills development and access to essential documents and other appropriate services to help
6349 children or persons prepare for self-sufficiency.

6350 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of
6351 this chapter.

6352 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
6353 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell

6354 for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a
6355 child to a juvenile facility.

6356 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
6357 court of each county or city.

6358 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced
6359 in this chapter.

6360 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right
6361 to have physical custody of the child, to determine and redetermine where and with whom he shall live,
6362 the right and duty to protect, train and discipline him and to provide him with food, shelter, education and
6363 ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status
6364 created by court order of joint custody as defined in § 20-107.2.

6365 "Permanent foster care placement" means the place of residence in which a child resides and in
6366 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and
6367 agreement between the placing agency and the place of permanent foster care that the child shall remain
6368 in the placement until he reaches the age of majority unless modified by court order or unless removed
6369 pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of
6370 any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

6371 "Qualified individual" means a trained professional or licensed clinician who is not an employee
6372 of the local board of social services or licensed child-placing agency that placed the child in a qualified
6373 residential treatment program and is not affiliated with any placement setting in which children are placed
6374 by such local board of social services or licensed child-placing agency.

6375 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
6376 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
6377 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
6378 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
6379 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
6380 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts

6381 outreach with the child's family members, including efforts to maintain connections between the child and
6382 his siblings and other family; documents and maintains records of such outreach efforts; and maintains
6383 contact information for any known biological family and fictive kin of the child; (v) whenever appropriate
6384 and in the best interest of the child, facilitates participation by family members in the child's treatment
6385 program before and after discharge and documents the manner in which such participation is facilitated;
6386 (vi) provides discharge planning and family-based aftercare support for at least six months after discharge;
6387 (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by
6388 the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the
6389 program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses
6390 the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional
6391 assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the
6392 child can be met through placement with a family member or in a foster home or, if not, in a placement
6393 setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that
6394 would provide the most effective and appropriate level of care for the child in the least restrictive
6395 environment and be consistent with the short-term and long-term goals established for the child in his
6396 foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral
6397 health goals for the child; and (d) is documented in a written report to be filed with the court prior to any
6398 hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

6399 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with
6400 the parent after the transfer of legal custody or guardianship of the person, including but not limited to the
6401 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
6402 for support.

6403 "Secure facility" or "detention home" means a local, regional or state public or private locked
6404 residential facility that has construction fixtures designed to prevent escape and to restrict the movement
6405 and activities of children held in lawful custody.

6406 "Shelter care" means the temporary care of children in physically unrestricting facilities.

6407 "State Board" means the State Board of Juvenile Justice.

6408 "Status offender" means a child who commits an act prohibited by law which would not be criminal
6409 if committed by an adult.

6410 "Status offense" means an act prohibited by law which would not be an offense if committed by
6411 an adult.

6412 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §
6413 16.1-269.1 when committed by a juvenile 14 years of age or older.

6414 **§ 16.1-260. Intake; petition; investigation.**

6415 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
6416 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
6417 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
6418 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
6419 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
6420 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
6421 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
6422 and file petitions and motions relating to the establishment, modification, or enforcement of support on
6423 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
6424 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
6425 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
6426 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
6427 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf
6428 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
6429 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
6430 shall be referred initially to the local department of social services in accordance with the provisions of
6431 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
6432 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
6433 inquire whether the petitioner is receiving child support services or public assistance. No individual who
6434 is receiving support services or public assistance shall be denied the right to file a petition or motion to

6435 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
6436 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
6437 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

6438 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
6439 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
6440 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
6441 communications and proceedings shall be conducted in the same manner as if the appearance were in
6442 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
6443 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
6444 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
6445 signatures. Any two-way electronic video and audio communication system used for an appearance shall
6446 meet the standards as set forth in subsection B of § 19.2-3.1.

6447 When the court service unit of any court receives a complaint alleging facts which may be
6448 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
6449 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
6450 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
6451 probable cause for the issuance of the petition.

6452 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
6453 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
6454 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
6455 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
6456 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
6457 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had
6458 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
6459 that would be a felony if committed by an adult.

6460 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
6461 and the attendance officer has provided documentation to the intake officer that the relevant school

6462 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
6463 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
6464 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
6465 in need of supervision on more than two occasions for failure to comply with compulsory school
6466 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
6467 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
6468 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
6469 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
6470 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
6471 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
6472 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
6473 appropriate public agency for the purpose of developing a truancy plan using an interagency
6474 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
6475 from the appropriate department of social services, community services board, local school division, court
6476 service unit, and other appropriate and available public and private agencies and may be the family
6477 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
6478 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
6479 shall file the petition.

6480 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
6481 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
6482 plan for the juvenile, which may include restitution and the performance of community service, based
6483 upon community resources and the circumstances which resulted in the complaint, (B) create an official
6484 record of the action taken by the intake officer and file such record in the juvenile's case file, and (C)
6485 advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the
6486 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
6487 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241
6488 may result in the filing of a petition with the court.

6489 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
6490 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
6491 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
6492 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
6493 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
6494 order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force,
6495 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
6496 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
6497 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
6498 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
6499 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile
6500 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
6501 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
6502 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
6503 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
6504 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
6505 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
6506 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

6507 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
6508 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
6509 need of supervision have utilized or attempted to utilize treatment and services available in the community
6510 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
6511 officer determines that the parties have not attempted to utilize available treatment or services or have not
6512 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the
6513 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
6514 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that

6515 the parties have made a reasonable effort to utilize available community treatment or services may he
6516 permit the petition to be filed.

6517 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
6518 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
6519 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
6520 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
6521 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
6522 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
6523 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
6524 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
6525 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
6526 a misdemeanor other than Class 1, his decision is final.

6527 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
6528 the intake officer shall accept and file a petition founded upon the warrant.

6529 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
6530 which alleges facts of an offense which would be a felony if committed by an adult.

6531 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
6532 report with the division superintendent of the school division in which any student who is the subject of a
6533 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
6534 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
6535 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
6536 of the filing of the petition and the nature of the offense, if the violation involves:

6537 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
6538 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

6539 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

6540 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
6541 Title 18.2;

- 6542 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 6543 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
- 6544 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 6545 6. Manufacture, sale or distribution of marijuana pursuant to Article ~~1~~ 6 (§ ~~18.2-247~~ 4.1-644 et
- 6546 seq.) of Chapter ~~7~~ 6 of Title ~~18.2~~ 4.1;
- 6547 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 6548 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 6549 9. Robbery pursuant to § 18.2-58;
- 6550 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 6551 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 6552 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 6553 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 6554 14. A threat pursuant to § 18.2-60.

6555 The failure to provide information regarding the school in which the student who is the subject of
6556 the petition may be enrolled shall not be grounds for refusing to file a petition.

6557 The information provided to a division superintendent pursuant to this section may be disclosed
6558 only as provided in § 16.1-305.2.

6559 H. The filing of a petition shall not be necessary:

6560 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
6561 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
6562 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

6563 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
6564 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
6565 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
6566 accident may be located, proceed on a summons in lieu of filing a petition.

6567 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
6568 H of § 16.1-241.

6569 3. In the case of a misdemeanor violation of § 4.1-648, 18.2-266, 18.2-266.1, or 29.1-738, or the
6570 commission of any other alcohol-related offense, ~~or a violation of § 18.2-250.1~~, provided that the juvenile
6571 is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing
6572 a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also
6573 issue a summons requiring the parent or legal guardian to appear before the court with the juvenile.
6574 Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9.
6575 If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738
6576 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis
6577 pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be
6578 followed except that the magistrate shall authorize execution of the warrant as a summons. The summons
6579 shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be
6580 forwarded to the court in which the violation is to be tried. When a violation of § 4.1-305 ~~or 18.2-250.1~~
6581 4.1-648 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for
6582 consideration of informal proceedings pursuant to subsection B, provided that such right is exercised by
6583 written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a
6584 violation of § 4.1-305 ~~or 18.2-250.1~~ 4.1-648 is served, the officer shall also serve upon the juvenile written
6585 notice of the right to have the charge referred to intake on a form approved by the Supreme Court and
6586 make return of such service to the court. If the officer fails to make such service or return, the court shall
6587 dismiss the summons without prejudice.

6588 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or
6589 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in §
6590 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided
6591 by law for adults provided that notice of the summons to appear is mailed by the investigating officer
6592 within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

6593 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
6594 of the jurisdiction granted it in § 16.1-241.

6595 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
6596 **impact statement.**

6597 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
6598 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
6599 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
6600 violations, the court before final disposition thereof may require an investigation, which (i) shall include
6601 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
6602 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
6603 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
6604 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
6605 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
6606 an adult, (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter
6607 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed
6608 by an adult, or (c) a violation of ~~§ 18.2-250.1~~ 4.1-648, the court shall order the juvenile to undergo a drug
6609 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
6610 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500
6611 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
6612 individual employed by or currently under contract to such agencies and who is specifically trained to
6613 conduct such assessments under the supervision of such counselor.

6614 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
6615 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
6616 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
6617 physical, psychological, or economic injury as a result of the violation of law.

6618 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug**
6619 **tests; costs and fees; education or treatment programs.**

6620 Whenever any juvenile who has not previously been found delinquent of any offense under Article
6621 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2

6622 or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
6623 depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of
6624 such an offense dismissed as provided in § 4.1-664 or 18.2-251, is found delinquent of any offense
6625 concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical
6626 substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo
6627 a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing,
6628 to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court
6629 services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by
6630 personnel of any program or agency approved by the Department. The cost of such testing ordered by the
6631 court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose.
6632 The court shall also order the juvenile to undergo such treatment or education program for substance
6633 abuse, if available, as the court deems appropriate based upon consideration of the substance abuse
6634 assessment. The treatment or education shall be provided by a program licensed by the Department of
6635 Behavioral Health and Developmental Services or by a similar program available through a facility or
6636 program operated by or under contract to the Department of Juvenile Justice or a locally operated court
6637 services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-
6638 309.2 et seq.).

6639 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
6640 **offenses; truancy.**

6641 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
6642 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
6643 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
6644 a felony violation of Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-248, ~~18.2-248.1~~ or
6645 18.2-250; (iv) a misdemeanor violation of Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-
6646 248, ~~18.2-248.1~~, or 18.2-250 or a violation of § ~~18.2-250.1~~, 4.1-649; (v) the unlawful purchase, possession,
6647 or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic
6648 beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of

6649 § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a
6650 handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court
6651 shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the
6652 child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense
6653 involves a violation designated under clause (i) and the child was transporting a person 17 years of age or
6654 younger, the court shall impose the additional fine and order community service as provided in § 18.2-
6655 270. If the offense involves a violation designated under clause (i), (ii), (iii) or (viii), the denial of a driver's
6656 license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer,
6657 for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is
6658 longer, for a second or subsequent such offense. If the offense involves a violation designated under clause
6659 (iv), (v) or (vi) the denial of driving privileges shall be for a period of six months unless the offense is
6660 committed by a child under the age of 16 years and three months, in which case the child's ability to apply
6661 for a driver's license shall be delayed for a period of six months following the date he reaches the age of
6662 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court
6663 shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of
6664 guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case
6665 pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or
6666 (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to
6667 the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause
6668 (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense
6669 involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any
6670 semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding
6671 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless
6672 the offense is committed by a child under the age of 16 years and three months, in which event the child's
6673 ability to apply for a driver's license shall be delayed for a period of two years following the date he
6674 reaches the age of 16 and three months.

6675 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
6676 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
6677 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
6678 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
6679 of not less than 30 days following the date he reaches the age of 16 and three months.

6680 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
6681 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
6682 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
6683 and three months, as may be appropriate.

6684 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
6685 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or
6686 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
6687 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
6688 offense.

6689 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
6690 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
6691 in the physical custody of the court during any period of license denial.

6692 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
6693 which shall preserve a record thereof. The report and the record shall include a statement as to whether
6694 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
6695 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) ~~of this chapter~~ or the
6696 provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for
6697 the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department
6698 of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

6699 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
6700 driver's license until such time as is stipulated in the court order or until notification by the court of
6701 withdrawal of the order of denial under subsection E.

6702 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
6703 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol
6704 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
6705 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
6706 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
6707 such terms and conditions as the court may set forth.

6708 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
6709 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
6710 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
6711 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
6712 shall be issued for travel to and from home and school when school-provided transportation is available
6713 and no restricted license shall be issued if the finding as to such child involves a violation designated
6714 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
6715 designated in subsection A, a second finding by the court of failure to comply with school attendance and
6716 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
6717 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
6718 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
6719 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
6720 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
6721 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
6722 is guilty of a violation of § 46.2-301.

6723 E. Upon petition made at least 90 days after issuance of the order, the court may review and
6724 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
6725 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
6726 and withdrawn until one year after its issuance.

6727 F. If the finding as to such child involves a first violation designated under clause (vii) of
6728 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's

6729 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
6730 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
6731 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
6732 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
6733 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
6734 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
6735 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
6736 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
6737 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
6738 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

6739 **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

6740 A. A clerk of the circuit court who provides secure remote access to land records pursuant to §
6741 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and
6742 deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as
6743 defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined
6744 in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an
6745 amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to
6746 cover operational expenses as defined in § 17.1-295.

6747 The Office of the Attorney General, the Division of Debt Collection, the Department of
6748 Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, the Department
6749 of General Services, the Department of Conservation and Recreation, the Department of Forestry, the
6750 Virginia Alcoholic Beverage and Cannabis Control Authority, and the Department of Rail and Public
6751 Transportation shall be exempt from paying any fee for remote access to land records. If any clerk
6752 contracts with an outside vendor to provide remote access to land records to subscribers, such contract
6753 shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection,
6754 the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic
6755 Resources, the Department of General Services, the Department of Conservation and Recreation, the

6756 Department of Forestry, the Virginia Alcoholic Beverage and Cannabis Control Authority, and the
6757 Department of Rail and Public Transportation from paying any access or subscription fee.

6758 B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes
6759 to have remote access, in accordance with the security standards established by the Virginia Information
6760 Technologies Agency. Any such agreement between a state agency or employee thereof acting in the
6761 employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote
6762 access to land records to subscribers, or such an agreement between a state agency or employee thereof
6763 acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any
6764 provision requiring the state agency or employee thereof acting in the employee's official capacity to
6765 indemnify the clerk or the vendor. Any such agreement between a state agency and the clerk or an outside
6766 vendor shall provide that the state agency is required to monitor its employees' activity under such
6767 agreement to ensure compliance with its terms.

6768 C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee
6769 that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image
6770 downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

6771 D. Nothing herein shall be construed to require the use by the general public of the secure remote
6772 access to land records made available by the clerk, and such records may continue to be accessed in person
6773 in the clerk's office.

6774 **§ 18.2-46.1. Definitions.**

6775 As used in this article unless the context requires otherwise or it is otherwise provided:

6776 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

6777 "Criminal street gang" means any ongoing organization, association, or group of three or more
6778 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
6779 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
6780 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
6781 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
6782 which is an act of violence, provided such acts were not part of a common act or transaction.

6783 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-
6784 46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55,
6785 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-
6786 127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2,
6787 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01,
6788 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346,
6789 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-645 or 18.2-248 ~~or of 18.2-248.1~~ or a conspiracy to
6790 commit a felony violation of § 4.1-645 or 18.2-248 ~~or 18.2-248.1~~; (v) any violation of a local ordinance
6791 adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state
6792 or territory of the United States, the District of Columbia, or the United States.

6793 **§ 18.2-57. Assault and battery; penalty.**

6794 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1
6795 misdemeanor, and if the person intentionally selects the person against whom a simple assault is
6796 committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation,
6797 color, or national origin, the penalty upon conviction shall include a term of confinement of at least six
6798 months.

6799 B. However, if a person intentionally selects the person against whom an assault and battery
6800 resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender
6801 identity, sexual orientation, color, or national origin, the person is guilty of a Class 6 felony, and the
6802 penalty upon conviction shall include a term of confinement of at least six months.

6803 C. In addition, if any person commits an assault or an assault and battery against another knowing
6804 or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as
6805 defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care,
6806 treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a
6807 local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in
6808 the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in
6809 the custody of or under the supervision of the Department of Juvenile Justice, an employee or other

6810 individual who provides control, care, or treatment of sexually violent predators committed to the custody
6811 of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-
6812 102, or a volunteer firefighter or any emergency medical services personnel member who is employed by
6813 or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire
6814 department or volunteer emergency medical services agency, regardless of whether a resolution has been
6815 adopted by the governing body of a political subdivision recognizing such firefighters or emergency
6816 medical services personnel as employees, engaged in the performance of his public duties anywhere in
6817 the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such
6818 person shall include a mandatory minimum term of confinement of six months.

6819 Nothing in this subsection shall be construed to affect the right of any person charged with a
6820 violation of this section from asserting and presenting evidence in support of any defenses to the charge
6821 that may be available under common law.

6822 D. In addition, if any person commits a battery against another knowing or having reason to know
6823 that such other person is a full-time or part-time employee of any public or private elementary or secondary
6824 school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and
6825 the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which
6826 shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a
6827 firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a
6828 mandatory minimum sentence of confinement of six months.

6829 E. In addition, any person who commits a battery against another knowing or having reason to
6830 know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the
6831 performance of his duties in a hospital or in an emergency room on the premises of any clinic or other
6832 facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such
6833 person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall
6834 be a mandatory minimum term of confinement.

6835 F. As used in this section:

6836 "Disability" means a physical or mental impairment that substantially limits one or more of a
6837 person's major life activities.

6838 "Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.)
6839 of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

6840 "Judge" means any justice or judge of a court of record of the Commonwealth including a judge
6841 designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore
6842 under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers'
6843 Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge
6844 of such district court.

6845 "Law-enforcement officer" means any full-time or part-time employee of a police department or
6846 sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof
6847 who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or
6848 highway laws of the Commonwealth, any conservation officer of the Department of Conservation and
6849 Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage
6850 and Cannabis Control Authority, any conservation police ~~officers~~ officer appointed pursuant to § 29.1-
6851 200, any full-time sworn ~~members~~ member of the enforcement division of the Department of Motor
6852 Vehicles appointed pursuant to § 46.2-217, ~~and~~ any employee with internal investigations authority
6853 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, ~~and such officer~~
6854 ~~also includes any jail officers~~ officer in a local and or regional correctional facilities facility, all any deputy
6855 ~~sheriffs~~ sheriff, whether assigned to law-enforcement duties, court services or local jail responsibilities,
6856 any auxiliary police ~~officers~~ officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733,
6857 any auxiliary deputy ~~sheriffs~~ sheriff appointed pursuant to § 15.2-1603, any police ~~officers~~ officer of the
6858 Metropolitan Washington Airports Authority pursuant to § 5.1-158, and any fire ~~marshals~~ marshal
6859 appointed pursuant to § 27-30 when such fire ~~marshals have~~ marshal has police powers as set out in §§
6860 27-34.2 and 27-34.2:1.

6861 "School security officer" means the same as that term is defined in § 9.1-101.

6862 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any
6863 school security officer or full-time or part-time employee of any public or private elementary or secondary
6864 school while acting in the course and scope of his official capacity, any of the following: (i) incidental,
6865 minor or reasonable physical contact or other actions designed to maintain order and control; (ii)
6866 reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance
6867 that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to
6868 prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-
6869 defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or
6870 other dangerous objects or controlled substances or associated paraphernalia that are upon the person of
6871 the student or within his control.

6872 In determining whether a person was acting within the exceptions provided in this subsection, due
6873 deference shall be given to reasonable judgments that were made by a school security officer or full-time
6874 or part-time employee of any public or private elementary or secondary school at the time of the event.

6875 **§ 18.2-246.6. Definitions.**

6876 For purposes of this article:

6877 "Adult" means a person who is at least the legal minimum purchasing age.

6878 "Board" means the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
6879 Authority.

6880 "Consumer" means an individual who is not permitted as a wholesaler pursuant to § 58.1-1011 or
6881 who is not a retailer.

6882 "Delivery sale" means any sale of cigarettes to a consumer in the Commonwealth regardless of
6883 whether the seller is located in the Commonwealth where either (i) the purchaser submits the order for
6884 such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery
6885 service, or the Internet or other online service; or (ii) the cigarettes are delivered by use of the mails or a
6886 delivery service. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer
6887 or retail dealer, as such terms are defined in § 58.1-1000, shall not be a delivery sale. A delivery of
6888 cigarettes, not through the mail or by a common carrier, to a consumer performed by the owner, employee

6889 or other individual acting on behalf of a retailer authorized to sell such cigarettes shall not be a delivery
6890 sale.

6891 "Delivery service" means any person who is engaged in the commercial delivery of letters,
6892 packages, or other containers.

6893 "Legal minimum purchasing age" is the minimum age at which an individual may legally purchase
6894 cigarettes in the Commonwealth.

6895 "Mails" or "mailing" means the shipment of cigarettes through the United States Postal Service.

6896 "Shipping container" means a container in which cigarettes are shipped in connection with a
6897 delivery sale.

6898 "Shipping documents" means bills of lading, airbills, or any other documents used to evidence the
6899 undertaking by a delivery service to deliver letters, packages, or other containers.

6900 **§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V**
6901 **and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

6902 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in
6903 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
6904 3400 et seq.).

6905 B. The term "imitation controlled substance₂" when used in this article₂ means (i) a counterfeit
6906 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a
6907 controlled substance subject to abuse; and:

6908 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging
6909 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
6910 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
6911 into commerce prior to the initial introduction into commerce of the controlled substance which it is
6912 alleged to imitate; or

6913 2. Which by express or implied representations purports to act like a controlled substance as a
6914 stimulant or depressant of the central nervous system and which is not commonly used or recognized for

6915 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
6916 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

6917 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
6918 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
6919 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
6920 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
6921 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
6922 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
6923 and how it is sold to the public.

6924 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
6925 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
6926 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
6927 ~~Marijuana does not include the mature stalks of such plant, fiber produced from such stalk, oil or cake~~
6928 ~~made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of~~
6929 ~~plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in § 3.2-4112,~~
6930 ~~that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp~~
6931 ~~product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3~~
6932 ~~percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed~~
6933 ~~in compliance with state or federal law.~~

6934 E. The term "counterfeit controlled substance" means a controlled substance that, without
6935 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
6936 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug
6937 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
6938 distributor who did in fact so manufacture, process, pack or distribute such drug.

6939 ~~F. The Department of Forensic Science shall determine the proper methods for detecting the~~
6940 ~~concentration of delta-9 tetrahydrocannabinol (THC) in substances for the purposes of this title and §§~~
6941 ~~54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other~~

6942 equivalent method and shall consider the potential conversion of delta-9 tetrahydrocannabinol acid (THC-
6943 A) into THC. The test result shall include the total available THC derived from the sum of the THC and
6944 THC-A content.

6945 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**
6946 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
6947 **prohibited; penalties.**

6948 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for
6949 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or
6950 distribute a controlled substance or an imitation controlled substance.

6951 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
6952 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
6953 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
6954 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
6955 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
6956 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
6957 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
6958 which over-the-counter substances of like chemical composition sell.

6959 C. Except as provided in subsection C1, any person who violates this section with respect to a
6960 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
6961 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
6962 violation, and it is alleged in the warrant, indictment, or information that the person has been before
6963 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
6964 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
6965 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
6966 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
6967 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
6968 consecutively with any other sentence, and he shall be fined not more than \$500,000.

6969 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
6970 in the warrant, indictment or information that he has been before convicted of two or more such offenses
6971 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
6972 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
6973 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
6974 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
6975 consecutively with any other sentence, and he shall be fined not more than \$500,000.

6976 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
6977 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million
6978 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
6979 imprisonment to be served consecutively with any other sentence:

- 6980 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 6981 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 6982 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
6983 derivatives of ecgonine or their salts have been removed;
 - 6984 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 6985 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 6986 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
6987 referred to in subdivisions ~~2a through 2e~~ a, b, and c;
- 6988 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
6989 that contain cocaine base; or
- 6990 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
6991 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
6992 salts of its isomers.

6993 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
6994 shall not be applicable if the court finds that:

- 6995 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

6996 b. The person did not use violence or credible threats of violence or possess a firearm or other
6997 dangerous weapon in connection with the offense or induce another participant in the offense to do so;

6998 c. The offense did not result in death or serious bodily injury to any person;

6999 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
7000 was not engaged in a continuing criminal enterprise as defined in subsection I; and

7001 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
7002 Commonwealth all information and evidence the person has concerning the offense or offenses that were
7003 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
7004 relevant or useful other information to provide or that the Commonwealth already is aware of the
7005 information shall not preclude a determination by the court that the defendant has complied with this
7006 requirement.

7007 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
7008 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
7009 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
7010 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
7011 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
7012 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
7013 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
7014 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
7015 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
7016 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
7017 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
7018 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
7019 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
7020 \$500,000.

7021 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
7022 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner

7023 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
7024 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
7025 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
7026 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
7027 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
7028 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
7029 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
7030 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that
7031 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
7032 to the guidelines established pursuant to § 32.1-11.7.

7033 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
7034 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
7035 not an inmate in a community correctional facility, local correctional facility or state correctional facility
7036 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
7037 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
7038 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
7039 of a Class 5 felony.

7040 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
7041 prescription of a person authorized under this article to issue the same, which prescription has not been
7042 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
7043 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
7044 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
7045 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
7046 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
7047 misdemeanor.

7048 E1. Any person who violates this section with respect to a controlled substance classified in
7049 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
7050 248.5, ~~shall be~~ is guilty of a Class 5 felony.

7051 E2. Any person who violates this section with respect to a controlled substance classified in
7052 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

7053 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
7054 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
7055 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
7056 who is not an inmate in a community correctional facility, local correctional facility or state correctional
7057 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
7058 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
7059 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
7060 guilty of a Class 1 misdemeanor.

7061 F. Any person who violates this section with respect to a controlled substance classified in
7062 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance
7063 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

7064 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
7065 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
7066 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
7067 that the defendant believed the imitation controlled substance to actually be a controlled substance.

7068 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to
7069 manufacture, sell, give or distribute the following:

- 7070 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 7071 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
- 7072 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
7073 derivatives of ecgonine or their salts have been removed;
- 7074 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

7075 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

7076 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the

7077 substances referred to in subdivisions a ~~through~~ b, and c;

7078 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains

7079 cocaine base; or

7080 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~

7081 ~~or~~

7082 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams

7083 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,

7084 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and

7085 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such

7086 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a

7087 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or

7088 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense

7089 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious

7090 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others

7091 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this

7092 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the

7093 Commonwealth all information and evidence the person has concerning the offense or offenses that were

7094 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no

7095 relevant or useful other information to provide or that the Commonwealth already is aware of the

7096 information shall not preclude a determination by the court that the defendant has complied with this

7097 requirement.

7098 H1. Any person who was the principal or one of several principal administrators, organizers or

7099 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at

7100 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from

7101 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the

7102 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
 7103 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
 7104 distribute the following during any 12-month period of its existence:

7105 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
 7106 detectable amount of heroin;

7107 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
 7108 detectable amount of:

7109 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 7110 derivatives of ecgonine or their salts have been removed;

7111 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

7112 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

7113 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
 7114 substances referred to in subdivisions a ~~through b, and~~ c;

7115 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
 7116 subdivision 2 ~~which~~ that contains cocaine base; or

7117 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
 7118 ~~detectable amount of marijuana; or~~

7119 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
 7120 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
 7121 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

7122 A conviction under this section shall be punishable by a fine of not more than \$1 million and
 7123 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

7124 H2. Any person who was the principal or one of several principal administrators, organizers or
 7125 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
 7126 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
 7127 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
 7128 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess

7129 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
7130 existence:

- 7131 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
- 7132 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:
 - 7133 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 7134 derivatives of ecgonine or their salts have been removed;
 - 7135 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 7136 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 7137 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the
 - 7138 substances referred to in subdivisions a ~~through~~ b, and c;
- 7139 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains
- 7140 cocaine base; or
- 7141 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~
- 7142 ~~or~~
- 7143 5. ~~At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0~~
- 7144 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
- 7145 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
- 7146 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
- 7147 punishment shall be made to run consecutively with any other sentence. However, the court may impose
- 7148 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
- 7149 with law-enforcement authorities.

7150 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
7151 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
7152 is a part of a continuing series of violations of this section which are undertaken by such person in concert
7153 with five or more other persons with respect to whom such person occupies a position of organizer, a
7154 supervisory position, or any other position of management, and from which such person obtains
7155 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or

7156 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
7157 association with any criminal street gang as defined in § 18.2-46.1.

7158 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
7159 any two or more different substances listed below with the intent to manufacture methamphetamine,
7160 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
7161 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
7162 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
7163 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
7164 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
7165 or 2-propanone.

7166 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
7167 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
7168 salts of optical isomers.

7169 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

7170 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
7171 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
7172 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
7173 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
7174 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.

7175 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
7176 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
7177 to exceed \$1,000,000. A second or subsequent conviction hereunder shall be punishable by a mandatory
7178 minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

7179 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
7180 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
7181 **costs and fees; violations; discharge.**

7182 Whenever any person who has not previously been convicted of any criminal offense under this
7183 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
7184 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
7185 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
7186 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
7187 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
7188 consent of the accused, may defer further proceedings and place him on probation upon terms and
7189 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
7190 of court has been provided with the fingerprint identification information or fingerprints of the person,
7191 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
7192 photograph of the person be taken by a law-enforcement officer.

7193 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
7194 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
7195 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
7196 based upon consideration of the substance abuse assessment. The program or services may be located in
7197 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
7198 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
7199 Developmental Services, by a similar program which is made available through the Department of
7200 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
7201 (iii) an ASAP program certified by the Commission on VASAP.

7202 The court shall require the person entering such program under the provisions of this section to
7203 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
7204 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
7205 indigent.

7206 As a condition of probation, the court shall require the accused (a) to successfully complete
7207 treatment or education program or services, (b) to remain drug and alcohol free during the period of
7208 probation and submit to such tests during that period as may be necessary and appropriate to determine if

7209 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
7210 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
7211 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
7212 probation agency or personnel of any program or agency approved by the supervising probation agency.

7213 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
7214 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
7215 court has been provided with the fingerprint identification information or fingerprints of such person, the
7216 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
7217 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
7218 section in subsequent proceedings.

7219 Notwithstanding any other provision of this section, whenever a court places an individual on
7220 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
7221 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
7222 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

7223 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

7224 There is hereby established in the state treasury the Drug Offender Assessment and Treatment
7225 Fund, which shall consist of moneys received from ~~(i) fees imposed on certain drug offense convictions~~
7226 ~~pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed for~~
7227 ~~violations of § 18.2-250.1. All interest derived from the deposit and investment of moneys in the Fund~~
7228 shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the
7229 Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund
7230 at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General
7231 Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on
7232 VASAP to implement and operate the offender substance abuse screening and assessment program; the
7233 Department of Criminal Justice Services for the support of community-based probation and local pretrial
7234 services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the
7235 support of drug treatment court programs.

7236 § 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.

7237 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
7238 consumption or use of a controlled substance, alcohol, or any combination of such substances.

7239 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
7240 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
7241 marijuana pursuant to § 4.1-648 or 4.1-649, possession of a controlled substance pursuant to § 18.2-250,
7242 ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-388, or
7243 possession of controlled paraphernalia pursuant to § 54.1-3466 if:

7244 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
7245 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
7246 overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
7247 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
7248 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
7249 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

7250 2. Such individual remains at the scene of the overdose or at any alternative location to which he
7251 or the person requiring emergency medical attention has been transported until a law-enforcement officer
7252 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
7253 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
7254 forth herein;

7255 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
7256 the overdose; and

7257 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
7258 result of the individual seeking or obtaining emergency medical attention.

7259 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
7260 medical attention for himself or another individual, or to a person experiencing an overdose when another
7261 individual seeks or obtains emergency medical attention for him, during the execution of a search warrant
7262 or during the conduct of a lawful search or a lawful arrest.

7263 D. This section does not establish protection from arrest or prosecution for any individual or
7264 offense other than those listed in subsection B.

7265 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
7266 determined that the person arrested was immune from prosecution under this section.

7267 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

7268 No school nurse employed by a local school board, person employed by a local health department
7269 who is assigned to the public school pursuant to an agreement between the local health department and
7270 the school board, or other person employed by or contracted with a local school board to deliver health-
7271 related services shall be prosecuted under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-
7272 248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or distribution of cannabis oil for
7273 storing, dispensing, or administering cannabis oil, in accordance with a policy adopted by the local school
7274 board, to a student who has been issued a valid written certification for the use of cannabis oil in
7275 accordance with subsection B of § 54.1-3408.3.

7276 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
7277 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

7278 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
7279 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
7280 under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250, ~~or~~
7281 ~~18.2-250.1~~ for the possession or distribution of cannabis oil for the purposes of storing, dispensing, or
7282 administering cannabis oil to a patient or resident who has been issued a valid written certification for the
7283 use of cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of
7284 Pharmacy.

7285 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories.**

7286 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil, or
7287 industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial hemp grower,
7288 or a licensed industrial hemp processor for the purpose of performing required testing shall be prosecuted
7289 under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-~~

7290 ~~250.1,~~ or 18.2-255 for the possession or distribution of cannabis oil, or industrial hemp, or for storing
7291 cannabis oil, or industrial hemp for testing purposes in accordance with regulations promulgated by the
7292 Board of Pharmacy and the Board of Agriculture and Consumer Services.

7293 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
7294 **testing, and treatment or education.**

7295 The trial judge or court trying the case of any person found guilty of a criminal violation of any
7296 law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious
7297 chemical substances and like substances shall condition any suspended sentence by first requiring such
7298 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
7299 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
7300 shall be conducted by the supervising probation agency or by personnel of any program or agency
7301 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
7302 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
7303 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
7304 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
7305 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
7306 Department of Behavioral Health and Developmental Services, by a similar program or services available
7307 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
7308 imposes a sentence of 12 months or less, by a similar program or services available through a local or
7309 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
7310 ASAP program certified by the Commission on VASAP.

7311 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

7312 A. Whenever any person who has not previously been convicted of any criminal offense under this
7313 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana,~~
7314 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for
7315 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
7316 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious chemical

7317 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
7318 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
7319 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
7320 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
7321 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
7322 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
7323 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
7324 Health and Developmental Services or by a similar program or services available through the Department
7325 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
7326 12 months or less, by a similar program or services available through a local or regional jail, a local
7327 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
7328 certified by the Commission on VASAP.

7329 B. The court trying the case of any person alleged to have committed any criminal offense
7330 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
7331 which the commission of the offense was motivated by or closely related to the use of drugs and
7332 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
7333 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
7334 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
7335 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
7336 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
7337 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
7338 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
7339 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
7340 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
7341 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
7342 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
7343 correctional facility. Upon presentation of a certified statement from the director of the treatment facility

7344 to the effect that the confined person has successfully responded to treatment, the court may release such
7345 confined person prior to the termination of the period of time for which such person was confined and
7346 may suspend the remainder of the term upon such conditions as the court may prescribe.

7347 C. The court trying a case in which commission of the criminal offense was related to the
7348 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
7349 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
7350 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
7351 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
7352 Developmental Services, if space is available in such facility, for a period of time not in excess of the
7353 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
7354 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
7355 committed may be convicted of escape if he leaves the place of commitment without authority. The court
7356 may revoke such commitment at any time and transfer the person to an appropriate state or local
7357 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
7358 to the effect that the confined person has successfully responded to treatment, the court may release such
7359 confined person prior to the termination of the period of time for which such person was confined and
7360 may suspend the remainder of the term upon such conditions as the court may prescribe.

7361 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

7362 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it
7363 ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
7364 distribute any drug classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age
7365 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
7366 distribution of any drug classified in Schedule I, II, III or IV ~~or marijuana~~. Any person violating this
7367 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
7368 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
7369 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~

7370 ~~marijuana shall be a mandatory minimum sentence. Two years of the sentence imposed for a conviction~~
7371 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

7372 B. It ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally
7373 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
7374 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
7375 controlled substance. Any person violating this provision ~~shall be~~ is guilty of a Class 6 felony.

7376 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**
7377 **in administering marijuana or controlled substances to minors; penalty.**

7378 It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
7379 to a minor any book, pamphlet, periodical or other printed matter which he knows advertises for sale any
7380 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
7381 administering, preparing or growing ~~marijuana~~ or a controlled substance.

7382 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
7383 **penalty.**

7384 A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to
7385 sell, give or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

7386 1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any public
7387 or private elementary or secondary school, any institution of higher education, or any clearly marked
7388 licensed child day center as defined in § 63.2-100;

7389 1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or
7390 private elementary or secondary school, any institution of higher education, or any clearly marked licensed
7391 child day center as defined in § 22.1-289.02;

7392 2. Upon public property or any property open to public use within 1,000 feet of the property
7393 described in subdivision 1;

7394 3. On any school bus as defined in § 46.2-100;

7395 4. Upon a designated school bus stop, or upon either public property or any property open to public
7396 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
7397 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

7398 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
7399 recreation or community center facility or any public library; or

7400 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
7401 property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of
7402 this section if the person possessed the controlled substance, or imitation controlled substance, ~~or~~
7403 ~~marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the person intended
7404 to sell, give or distribute the controlled substance, or imitation controlled substance, ~~or marijuana~~. Nothing
7405 in this section shall prohibit the authorized distribution of controlled substances.

7406 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
7407 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
7408 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
7409 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§
7410 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory minimum
7411 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
7412 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another
7413 individual and not with intent to profit thereby from any consideration received or expected nor to induce
7414 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
7415 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

7416 C. If a person commits an act violating the provisions of this section, and the same act also violates
7417 another provision of law that provides for penalties greater than those provided for by this section, then
7418 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
7419 law or the imposition of any penalties provided for thereby.

7420 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

7421 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
7422 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
7423 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
7424 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
7425 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
7426 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
7427 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
7428 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
7429 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
7430 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

7431 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

7432 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
7433 warehouse, dwelling house, apartment or building or structure of any kind which is (i) substantially altered
7434 from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry
7435 by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or
7436 distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be
7437 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
7438 of a Class 5 felony.

7439 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**
7440 **fraud, deceit or forgery.**

7441 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
7442 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
7443 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
7444 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
7445 giving of a false address.

7446 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any
 7447 information from, or willfully make a false statement in, any prescription, order, report, record, or other
 7448 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

7449 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
 7450 a controlled substance ~~or marijuana~~ a license number which is fictitious, revoked, suspended, or issued to
 7451 another person.

7452 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
 7453 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
 7454 physician, dentist, veterinarian, or other authorized person.

7455 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
 7456 or forged written order.

7457 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
 7458 containing any controlled substance.

7459 G. This section shall not apply to officers and employees of the United States, of this
 7460 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their
 7461 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
 7462 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
 7463 investigative, research or analytical purposes and who are acting in the course of their employment;
 7464 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
 7465 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
 7466 representatives file with the Board such information as the Board may deem appropriate.

7467 H. Except as otherwise provided in this subsection, any person who shall violate any provision
 7468 herein ~~shall be~~ is guilty of a Class 6 felony.

7469 Whenever any person who has not previously been convicted of any offense under this article or
 7470 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 7471 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
 7472 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not

7473 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
7474 finding of guilt, the court may place him on probation upon terms and conditions.

7475 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
7476 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
7477 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
7478 any other judicial circuit as the court may provide. The services shall be provided by a program certified
7479 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
7480 the person entering such program under the provisions of this section to pay all or part of the costs of the
7481 program, including the costs of the screening, evaluation, testing and education, based upon the person's
7482 ability to pay unless the person is determined by the court to be indigent.

7483 As a condition of supervised probation, the court shall require the accused to remain drug free
7484 during the period of probation and submit to such tests during that period as may be necessary and
7485 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
7486 any screening, evaluation, and education program to which the person is referred or by the supervising
7487 agency.

7488 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
7489 report to the original arresting law-enforcement agency to submit to fingerprinting.

7490 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
7491 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
7492 shall find the defendant guilty of a Class 1 misdemeanor.

7493 **§ 18.2-265.1. Definition.**

7494 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
7495 of any kind which are either designed for use or which are intended by the person charged with violating
7496 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
7497 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
7498 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
7499 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

- 7500 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
7501 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
7502 substance can be derived;
- 7503 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
7504 producing, processing, or preparing ~~marijuana~~ or controlled substances;
- 7505 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
7506 or any species of plant which is a controlled substance;
- 7507 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
7508 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
7509 determine whether a controlled substance contains fentanyl or a fentanyl analog;
- 7510 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
7511 controlled substances;
- 7512 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
7513 or designed for use in cutting controlled substances;
- 7514 ~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~
7515 ~~from, or in otherwise cleaning or refining, marijuana;~~
- 7516 ~~8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in~~
7517 ~~compounding controlled substances;~~
- 7518 ~~9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in~~
7519 ~~packaging small quantities of marijuana or controlled substances;~~
- 7520 ~~10. 9. Containers and other objects intended for use or designed for use in storing or concealing~~
7521 ~~marijuana or controlled substances;~~
- 7522 ~~11. 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in~~
7523 ~~parenterally injecting controlled substances into the human body;~~
- 7524 ~~12. 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing~~
7525 ~~marijuana, cocaine, hashish, or hashish oil into the human body, such as:~~

- 7526 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
- 7527 screens, ~~hashish heads~~, or punctured metal bowls;
- 7528 b. Water pipes;
- 7529 c. Carburetion tubes and devices;
- 7530 d. Smoking and carburetion masks;
- 7531 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that
- 7532 has become too small or too short to be held in the hand;
- 7533 f. Miniature cocaine spoons, and cocaine vials;
- 7534 g. Chamber pipes;
- 7535 h. Carburetor pipes;
- 7536 i. Electric pipes;
- 7537 j. Air-driven pipes;
- 7538 k. Chillums;
- 7539 l. Bongs;
- 7540 m. Ice pipes or chillers.

7541 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

7542 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
 7543 other relevant evidence, the following:

- 7544 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 7545 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
- 7546 known to the accused;
- 7547 3. Instructions, oral or written, provided with the object concerning its use;
- 7548 4. Descriptive materials accompanying the object which explain or depict its use;
- 7549 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 7550 6. The manner in which the object is displayed for sale;
- 7551 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
- 7552 a licensed distributor or dealer of tobacco products;

7553 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
7554 business enterprise;

7555 9. The existence and scope of legitimate uses for the object in the community;

7556 10. Expert testimony concerning its use or the purpose for which it was designed;

7557 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
7558 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
7559 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
7560 intended for use or designed for use as drug paraphernalia.

7561 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

7562 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
7563 circumstances where one reasonably should know, that it is either designed for use or intended by such
7564 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
7565 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
7566 otherwise introduce into the human body ~~marijuana or a controlled substance,~~ shall be is guilty of a Class
7567 1 misdemeanor.

7568 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug
7569 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be is~~ is guilty of a Class
7570 6 felony.

7571 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
7572 ~~shall be is~~ is guilty of a Class 1 misdemeanor.

7573 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

7574 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
7575 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1,~~ has in his possession a firearm or knife
7576 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
7577 is guilty of a Class 4 felony.

7578 **§ 18.2-308.03. Fees for concealed handgun permits.**

7579 A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit,
7580 including his costs associated with the consultation with law-enforcement agencies. The local law-
7581 enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover
7582 the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount
7583 assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information,
7584 and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of
7585 Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State
7586 Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The
7587 total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be
7588 paid in one sum to the person who receives the application. Payment may be made by any method accepted
7589 by that court for payment of other fees or penalties. No payment shall be required until the application is
7590 received by the court as a complete application.

7591 B. No fee shall be charged for the issuance of such permit to a person who has retired from service
7592 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage and
7593 Cannabis Control Authority or as a law-enforcement officer with the Department of State Police, the
7594 Department of Wildlife Resources, or a sheriff or police department, bureau, or force of any political
7595 subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a
7596 law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and
7597 Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and
7598 Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security
7599 Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of
7600 service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department
7601 within the United States, the District of Columbia, or any of the territories of the United States, after
7602 completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies
7603 listed in clauses (ii) through (iv), after completing 15 years of service; (vi) as a designated boarding team
7604 member or boarding officer of the United States Coast Guard, after completing 15 years of service or after
7605 reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service;

7606 or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of
7607 service.

7608 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

7609 The following persons shall be deemed disqualified from obtaining a permit:

7610 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to §
7611 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other
7612 state or of the United States.

7613 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-
7614 308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law of any
7615 other state or of the United States.

7616 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was
7617 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the
7618 date of his application for a concealed handgun permit.

7619 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose
7620 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his
7621 application for a concealed handgun permit.

7622 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was
7623 released from commitment less than five years before the date of this application for a concealed handgun
7624 permit.

7625 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
7626 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

7627 6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm,
7628 except that a restoration order may be obtained in accordance with subsection C of that section.

7629 7. An individual who has been convicted of two or more misdemeanors within the five-year period
7630 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
7631 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic

7632 infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
7633 disqualification.

7634 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
7635 cannabinoids, or any controlled substance.

7636 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar
7637 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
7638 state, the District of Columbia, the United States, or its territories within the three-year period immediately
7639 preceding the application.

7640 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

7641 11. An individual who has been discharged from the armed forces of the United States under
7642 dishonorable conditions.

7643 12. An individual who is a fugitive from justice.

7644 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts
7645 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
7646 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating
7647 that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a
7648 disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a
7649 weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the
7650 attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy
7651 sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written
7652 statement made under oath before a notary public of a competent person having personal knowledge of
7653 the specific acts.

7654 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
7655 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
7656 of § 18.2-282 within the three-year period immediately preceding the application.

7657 15. An individual who has been convicted of stalking.

7658 16. An individual whose previous convictions or adjudications of delinquency were based on an
7659 offense that would have been at the time of conviction a felony if committed by an adult under the laws
7660 of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier,
7661 only convictions occurring within 16 years following the later of the date of (i) the conviction or
7662 adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be
7663 deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an
7664 individual with previous adjudications of delinquency who has completed a term of service of no less than
7665 two years in the Armed Forces of the United States and, if such person has been discharged from the
7666 Armed Forces of the United States, received an honorable discharge.

7667 17. An individual who has a felony charge pending or a charge pending for an offense listed in
7668 subdivision 14 or 15.

7669 18. An individual who has received mental health treatment or substance abuse treatment in a
7670 residential setting within five years prior to the date of his application for a concealed handgun permit.

7671 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
7672 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
7673 in Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1, Article 1 (§ 18.2-247 et seq.),² or former § 18.2-
7674 248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids,
7675 or any controlled substance, under the laws of any state, the District of Columbia, or the United States or
7676 its territories.

7677 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within
7678 the three-year period immediately preceding the application, upon a charge of any criminal offense set
7679 forth in Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1, Article 1 (§ 18.2-247 et seq.),² or former §
7680 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids,
7681 or any controlled substance under the laws of any state, the District of Columbia, or the United States or
7682 its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and
7683 disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District
7684 of Columbia, or the United States or its territories.

7685 **§ 18.2-308.012. Prohibited conduct.**

7686 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
7687 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
7688 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
7689 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
7690 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
7691 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
7692 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
7693 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
7694 apply for a concealed handgun permit for a period of five years.

7695 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
7696 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
7697 has been granted by the Virginia Alcoholic Beverage and Cannabis Control Authority under Title 4.1 may
7698 consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto
7699 the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2
7700 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement
7701 officer.

7702 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

7703 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

7704 1. Any State Police officer retired from the Department of State Police, any officer retired from
7705 the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
7706 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
7707 retired from the State Corporation Commission or the Virginia Alcoholic Beverage and Cannabis Control
7708 Authority, any employee with internal investigations authority designated by the Department of
7709 Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any
7710 conservation police officer retired from the Department of Wildlife Resources, any conservation officer
7711 retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired

7712 from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police
7713 officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus
7714 police department, any retired member of the enforcement division of the Department of Motor Vehicles
7715 appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia
7716 Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii)
7717 following at least 10 years of service with any such law-enforcement agency, commission, board, or any
7718 combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such
7719 law-enforcement agency or board due to a service-related injury, provided such officer carries with him
7720 written proof of consultation with and favorable review of the need to carry a concealed handgun issued
7721 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
7722 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
7723 the Virginia Alcoholic Beverage and Cannabis Control Authority. A copy of the proof of consultation and
7724 favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police
7725 for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not
7726 without cause withhold such written proof if the retired law-enforcement officer otherwise meets the
7727 requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation
7728 to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-
7729 enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the
7730 surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal
7731 Information Network. However, if such officer retires on disability because of the service-related injury,
7732 and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he
7733 may retain the previously issued written proof of consultation.

7734 2. Any person who is eligible for retirement with at least 20 years of service with a law-
7735 enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing
7736 from such law-enforcement agency, commission, or board to accept a position covered by a retirement
7737 system that is authorized under Title 51.1, provided such person carries with him written proof of
7738 consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-

7739 enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the
7740 State Corporation Commission or the Virginia Alcoholic Beverage and Cannabis Control Authority. A
7741 copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or
7742 Board to the Department of State Police for entry into the Virginia Criminal Information Network. The
7743 chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement
7744 officer otherwise meets the requirements of this section.

7745 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
7746 Services of the United States or National Guard, while such officer is called to active military duty,
7747 provided such officer carries with him written proof of consultation with and favorable review of the need
7748 to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and
7749 favorable review shall be valid as long as the officer is on active military duty and shall expire when the
7750 officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable
7751 review shall be entered into the Virginia Criminal Information Network. The Superintendent of State
7752 Police shall not without cause withhold such written proof if the officer is in good standing and is qualified
7753 to carry a weapon while on active law-enforcement duty.

7754 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
7755 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
7756 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for
7757 qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries
7758 with him written proof of consultation with and favorable review of the need to carry a concealed handgun
7759 issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the
7760 requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement
7761 Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review
7762 shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into
7763 the Virginia Criminal Information Network.

7764 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a
7765 retired or resigned law-enforcement officer, including a retired or resigned attorney for the

7766 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
7767 review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned
7768 law-enforcement officer's expense, in the same training and testing to carry firearms as is required of
7769 active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer
7770 meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or
7771 resigned officer certification, valid one year from the date of issuance, indicating that the retired or
7772 resigned officer has met the standards of the agency to carry a firearm.

7773 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
7774 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
7775 review pursuant to this section may annually participate and meet the training and qualification standards
7776 to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired
7777 or resigned law-enforcement officer meets the training and qualification standards, the chief law-
7778 enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of
7779 issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to
7780 carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the
7781 standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board,
7782 or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal
7783 Information Network.

7784 D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-
7785 308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while
7786 carrying the proof of consultation and favorable review required, shall be deemed to have been issued a
7787 concealed handgun permit.

7788 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug**
7789 **offenses prohibited.**

7790 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor
7791 offenses under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1, subsection B of former § 18.2-
7792 248.1:1, or § 18.2-250 ~~or 18.2-250.1~~ shall be ineligible to purchase or transport a handgun. However, upon

7793 expiration of a period of five years from the date of the second conviction and provided the person has not
7794 been convicted of any such offense within that period, the ineligibility shall be removed.

7795 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

7796 A. ~~It shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
7797 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously
7798 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
7799 constitutes a separate and distinct felony.

7800 B. ~~It shall be~~ is unlawful for any person unlawfully in possession of a controlled substance
7801 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
7802 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
7803 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be
7804 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
7805 and apart from, and shall be made to run consecutively with, any punishment received for the commission
7806 of the primary felony.

7807 C. ~~It shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
7808 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
7809 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
7810 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
7811 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and
7812 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
7813 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
7814 from, and shall be made to run consecutively with, any punishment received for the commission of the
7815 primary felony.

7816 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor**
7817 **products, alternative nicotine products, and hemp products intended for smoking by a person**
7818 **younger than 21 years of age or sale of tobacco products, nicotine vapor products, alternative**

7819 nicotine products, and hemp products intended for smoking to persons younger than 21 years of
7820 age.

7821 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any
7822 person ~~less~~ younger than 21 years of age, knowing or having reason to believe that such person is ~~less~~
7823 younger than 21 years of age, any tobacco product, nicotine vapor product, alternative nicotine product,
7824 or hemp product intended for smoking.

7825 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products
7826 intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice,
7827 in a conspicuous manner and place, indicating that the purchase or possession of such products by persons
7828 ~~under~~ younger than 21 years of age is unlawful and (ii) located in a place that is not open to the general
7829 public and is not generally accessible to persons ~~under~~ younger than 21 years of age. An establishment
7830 that prohibits the presence of persons ~~under~~ younger than 21 years of age unless accompanied by a person
7831 21 years of age or older is not open to the general public.

7832 B. No person ~~less~~ younger than 21 years of age shall attempt to purchase, purchase, or possess any
7833 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
7834 smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products,
7835 nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person
7836 ~~less~~ younger than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products,
7837 alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or
7838 (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to
7839 further efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation,
7840 provided that such medical research has been approved by an institutional review board pursuant to
7841 applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16
7842 et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a
7843 law-enforcement officer or his agent when the same is necessary in the performance of his duties.

7844 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or
7845 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's

7846 license or similar photo identification issued by a government agency, that the individual is at least 21
7847 years of age. Such identification is not required from an individual whom the person has reason to believe
7848 is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person
7849 demanded, was shown, and reasonably relied upon a photo identification stating that the individual was
7850 at least 21 years of age shall be a defense to any action brought under this subsection. In determining
7851 whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may
7852 consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner
7853 of the individual.

7854 This subsection shall not apply to mail order or Internet sales, provided that the person offering
7855 the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
7856 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine
7857 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the
7858 purchaser is at least 21 years of age through a commercially available database that is regularly used by
7859 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method
7860 of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the
7861 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
7862 smoking will be released to the purchaser.

7863 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any
7864 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
7865 smoking to any active duty military personnel who are 18 years of age or older. An identification card
7866 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

7867 E. A violation of subsection A or C by an individual or by a separate retail establishment that
7868 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or
7869 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation,
7870 a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third
7871 or subsequent violation.

7872 A violation of subsection A or C by an individual or by a separate retail establishment that involves
7873 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first
7874 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount
7875 of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it
7876 has trained its employees concerning the requirements of this section, the court shall suspend all of the
7877 penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so
7878 train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties
7879 imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative
7880 nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

7881 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation
7882 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative
7883 to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of
7884 community service for a first violation of subsection B and up to 40 hours of community service for a
7885 second or subsequent violation. If the defendant fails or refuses to complete the community service as
7886 prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter
7887 an order pursuant to subdivision A 9 of § 16.1-278.8.

7888 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred
7889 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-
7890 enforcement officer may issue a summons for a violation of subsection A, B, or C.

7891 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
7892 provided by the manufacturer, with the required health warning. The proprietor of every retail
7893 establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product,
7894 or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs
7895 indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp
7896 products intended for smoking to any person ~~under~~ younger than 21 years of age is prohibited by law.
7897 Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
7898 enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall

7899 be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or
7900 town which instituted the action.

7901 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health
7902 Services Administration published at 61 Federal Register 1492, the Department of Agriculture and
7903 Consumer Services may promulgate regulations which allow the Department to undertake the activities
7904 necessary to comply with such regulations.

7905 3. Any attorney for the county, city, or town in which an alleged violation of this subsection
7906 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The
7907 civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the
7908 county, city, or town which instituted the action.

7909 G. Nothing in this section shall be construed to create a private cause of action.

7910 H. Agents of the Virginia Alcoholic Beverage and Cannabis Control Authority designated pursuant
7911 to § 4.1-105 may issue a summons for any violation of this section.

7912 I. As used in this section:

7913 "Alternative nicotine product" means any noncombustible product containing nicotine that is
7914 intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

7915 "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product
7916 regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
7917 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

7918 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros
7919 melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by,
7920 consumers as a bidi or beedie.

7921 "Hemp product intended for smoking" means the same as that term is defined in § 3.2-4112.

7922 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a
7923 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
7924 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.

7925 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic

7926 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other
7927 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,
7928 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product
7929 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic
7930 Act.

7931 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
7932 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor
7933 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C.
7934 § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

7935 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
7936 smoking in a manner similar to a cigarette or cigar.

7937 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
7938 **penalties.**

7939 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
7940 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
7941 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
7942 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
7943 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
7944 6555, he is guilty of a Class 1 misdemeanor.

7945 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
7946 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
7947 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
7948 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
7949 misdemeanor.

7950 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
7951 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,
7952 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any

7953 court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a)(3), (b) or (c) of §
7954 18.2-248.1, or § 18.2-46.2, or § 18.2-46.3, or relating to the violation of or conspiracy to violate any
7955 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

7956 D. Any person who knowingly and willfully makes any materially false statement or representation
7957 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
7958 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

7959 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
7960 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
7961 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
7962 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
7963 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
7964 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
7965 communication knows or should know that he is not free to leave.

7966 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

7967 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
7968 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
7969 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
7970 Department of Juvenile Justice in any juvenile correctional center, any drug which is a controlled
7971 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana
7972 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver
7973 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
7974 explosives of any nature is guilty of a Class 3 felony.

7975 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

7976 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
7977 **authorizing interception of communications.**

7978 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
7979 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a

7980 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
7981 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
7982 communications by the Department of State Police, when such interception may reasonably be expected
7983 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
7984 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
7985 of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article
7986 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.) or any felonies that are
7987 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
7988 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
7989 authorization for the observation or monitoring of the interception by a police department of a county or
7990 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
7991 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

7992 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

7993 1. In the case of an application for a wire or electronic interception, a judge of competent
7994 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
7995 cause to believe that an offense was committed, is being committed, or will be committed or the person
7996 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic
7997 communication system, maintain an address or a post office box, or are making the communication within
7998 the territorial jurisdiction of the court.

7999 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
8000 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
8001 offense was committed, is being committed, or will be committed or the physical location of the oral
8002 communication to be intercepted is within the territorial jurisdiction of the court.

8003 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
8004 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
8005 jurisdiction where the order is entered, regardless of the physical location or the method by which the
8006 communication is captured or routed to the monitoring location.

8007 § 19.2-81. Arrest without warrant authorized in certain cases.

8008 A. The following officers shall have the powers of arrest as provided in this section:

8009 1. Members of the State Police force of the Commonwealth;

8010 2. Sheriffs of the various counties and cities, and their deputies;

8011 3. Members of any county police force or any duly constituted police force of any city or town of
8012 the Commonwealth;

8013 4. The Commissioner, members and employees of the Marine Resources Commission granted the
8014 power of arrest pursuant to § 28.2-900;

8015 5. Regular conservation police officers appointed pursuant to § 29.1-200;

8016 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
8017 petty officers authorized under § 29.1-205 to make arrests;

8018 7. Conservation officers appointed pursuant to § 10.1-115;

8019 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
8020 appointed pursuant to § 46.2-217;

8021 9. Special agents of the Virginia Alcoholic Beverage and Cannabis Control Authority;

8022 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
8023 23.1; and

8024 11. Members of the Division of Capitol Police.

8025 B. Such officers may arrest without a warrant any person who commits any crime in the presence
8026 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
8027 committed a felony not in his presence.

8028 Such officers may arrest without a warrant any person whom the officer has probable cause to
8029 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
8030 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
8031 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
8032 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
8033 officer.

8034 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
8035 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
8036 in such accident has been transported, or in the apprehension of any person charged with the theft of any
8037 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
8038 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
8039 crime has been committed by any person then and there present, apprehend such person without a warrant
8040 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
8041 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
8042 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

8043 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
8044 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
8045 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
8046 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
8047 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
8048 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
8049 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
8050 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

8051 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in
8052 another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout,
8053 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
8054 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
8055 reasonably accurate description of such person wanted and the crime alleged.

8056 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not
8057 committed in his presence when the officer receives a radio message from his department or other law-
8058 enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

8059 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
8060 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,

8061 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
8062 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
8063 when such property is located on premises used for business or commercial purposes, or a similar local
8064 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
8065 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
8066 section for a misdemeanor violation involving shoplifting.

8067 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

8068 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
8069 19.2-81, persons for crimes involving:

- 8070 (a) The escape of an inmate from a correctional institution, as defined in § 53.1-1;
8071 (b) Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
8072 (c) The delivery of contraband to an inmate in violation of § 4.1-661, 18.2-474 or ~~§~~ 18.2-474.1;

8073 and

- 8074 (d) Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,
8075 or security of the population of a correctional institution.

8076 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

8077 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
8078 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
8079 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
8080 or other employee in any public school division in this Commonwealth for a felony or a Class 1
8081 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division
8082 superintendent of the employing division as soon as practicable. The contents of the report required
8083 pursuant to this section shall be utilized by the local school division solely to implement the provisions of
8084 subsection B of § 22.1-296.2 and § 22.1-315.

8085 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement
8086 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as
8087 practicable, with the division superintendent of the school division in which the student is enrolled upon

8088 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
8089 any public school division in this Commonwealth for:

8090 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
8091 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

8092 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

8093 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
8094 Title 18.2;

8095 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

8096 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
8097 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

8098 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4~~ 6 (~~§ 18.2-247~~ 4.1-644 et
8099 seq.) of Chapter ~~7~~ 6 of Title ~~18.2~~ 4.1;

8100 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8101 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

8102 9. Robbery pursuant to § 18.2-58;

8103 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

8104 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

8105 12. An act of violence by a mob pursuant to § 18.2-42.1; or

8106 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

8107 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

8108 A. In any preliminary hearing on a violation of Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title
8109 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of subdivision 6 of § 53.1-203,

8110 any law-enforcement officer shall be permitted to testify as to the results of field tests that have been
8111 approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the

8112 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of
8113 which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana,

8114 as defined in § 4.1-600 and 18.2-247.

8115 B. In any trial for a violation of § ~~18.2-250.1~~ 4.1-648 or 4.1-649, any law-enforcement officer shall
8116 be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the
8117 Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative
8118 Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at
8119 issue, is marijuana provided the defendant has been given written notice of his right to request a full
8120 chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided
8121 to the defendant prior to trial.

8122 In any case in which the person accused of a violation of § ~~18.2-250.1~~ 4.1-648 or 4.1-649, or the
8123 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may,
8124 by motion prior to trial before the court in which the charge is pending, request such a chemical analysis.
8125 Upon such motion, the court shall order that the analysis be performed by the Department of Forensic
8126 Science in accordance with the provisions of § 18.2-247 and shall prescribe in its order the method of
8127 custody, transfer, and return of evidence submitted for chemical analysis.

8128 **§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and**
8129 **blood, saliva, or tissue sample as condition of probation.**

8130 After conviction, whether with or without jury, the court may suspend imposition of sentence or
8131 suspend the sentence in whole or part and in addition may place the defendant on probation under such
8132 conditions as the court shall determine, including monitoring by a GPS (Global Positioning System)
8133 tracking device, or other similar device, or may, as a condition of a suspended sentence, require the
8134 defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused
8135 by the offense for which convicted, or to perform community service, or both, under terms and conditions
8136 which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost
8137 of the GPS tracking device or other similar device. If, however, the court suspends or modifies any
8138 sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the
8139 suspension or modification in the same manner as the statement required pursuant to subsection B of §
8140 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central
8141 Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine

8142 whether a copy of the defendant's fingerprints or fingerprint identification information has been provided
8143 by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or
8144 fingerprint identification information has not been provided by a law-enforcement officer to the clerk of
8145 court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as
8146 a condition of probation or of the suspension of the imposition or execution of any sentence for such
8147 offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the
8148 provisions of subsection D of § 19.2-390.

8149 In those courts having electronic access to the Local Inmate Data System (LIDS) within the
8150 courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether
8151 a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank
8152 maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter
8153 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored
8154 in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom,
8155 the court shall order that the defendant appear within 30 days before the sheriff or probation officer and
8156 allow the sheriff or probation officer to take the required sample. The order shall also require that, if the
8157 defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the
8158 date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure
8159 to appear and provide the required sample.

8160 After conviction and upon sentencing of an active participant or member of a criminal street gang,
8161 the court may, as a condition for suspending the imposition of the sentence in whole or in part or for
8162 placing the accused on probation, place reasonable restrictions on those persons with whom the accused
8163 may have contact. Such restrictions may include prohibiting the accused from having contact with anyone
8164 whom he knows to be a member of a criminal street gang, except that contact with a family or household
8165 member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

8166 In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1,
8167 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of
8168 the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time

8169 at least equal to the statutory maximum period for which the defendant might originally have been
8170 sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension
8171 subject to revocation by the court. The conditions of probation may include such conditions as the court
8172 shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of
8173 subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court
8174 shall order that at least three years of the probation include active supervision of the defendant under a
8175 postrelease supervision program operated by the Department of Corrections, and for at least three years
8176 of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS
8177 (Global Positioning System) tracking device, or other similar device.

8178 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any
8179 time before the sentence has been completely served, suspend the unserved portion of any such sentence,
8180 place the person on probation for such time as the court shall determine, or otherwise modify the sentence
8181 imposed.

8182 If a person has been sentenced for a felony to the Department of Corrections but has not actually
8183 been transferred to a receiving unit of the Department, the court which heard the case, if it appears
8184 compatible with the public interest and there are circumstances in mitigation of the offense, may, at any
8185 time before the person is transferred to the Department, suspend or otherwise modify the unserved portion
8186 of such a sentence. The court may place the person on probation for such time as the court shall determine.

8187 Notwithstanding any other provision of law or rule of court, any person who has been sentenced
8188 to jail or to the Department of Corrections for a marijuana offense, except for (i) a violation of subdivision
8189 (a) (3) of § 18.2-248.1, (ii) a violation of subsection (d) of § 18.2-248.1, or (iii) a violation of § 18.2-248.1
8190 where the defendant gave, distributed, or possessed with intent to give or distribute marijuana to a minor,
8191 may, at any time before the sentence has been completely served, file a motion with the court that heard
8192 the case for a resentencing hearing. If it appears compatible with the public interest and there are
8193 circumstances in mitigation of the offense, including the legalization of marijuana, such court may reduce,
8194 suspend or otherwise modify such person's sentence at any time before such person's sentence has been
8195 completely served. If the petitioner claims to be indigent, the petitioner shall additionally file with the

8196 court a statement of indigency and a request for the appointment of counsel on forms provided by the
8197 Supreme Court of Virginia. If the petition is not summarily dismissed and the court finds that the petitioner
8198 is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) of Chapter
8199 10 of Title 19.2, the court shall appoint counsel to represent the petitioner.

8200 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

8201 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
8202 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
8203 the final judgment order, provided substantial assistance in investigating or prosecuting another person
8204 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-
8205 95, or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-
8206 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
8207 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
8208 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
8209 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
8210 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
8211 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
8212 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
8213 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
8214 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
8215 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
8216 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
8217 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
8218 known to the defendant until more than one year after entry of the final judgment order, (2) information
8219 provided by the defendant within one year of entry of the final judgment order but that did not become
8220 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
8221 information the usefulness of which could not reasonably have been anticipated by the defendant until

8222 more than one year after entry of the final judgment order and which was promptly provided to the
8223 Commonwealth by the defendant after its usefulness was reasonably apparent.

8224 **§ 19.2-386.21. Forfeiture of counterfeit and contraband cigarettes.**

8225 Counterfeit cigarettes possessed in violation of § 18.2-246.14 and cigarettes possessed in violation
8226 of § 58.1-1017 or 58.1-1017.1 shall be subject to seizure, forfeiture, and destruction or court-ordered
8227 assignment for use by a law-enforcement undercover operation by the Virginia Alcoholic Beverage and
8228 Cannabis Control Authority or any law-enforcement officer of the Commonwealth. However, any
8229 undercover operation that makes use of counterfeit cigarettes shall ensure that the counterfeit cigarettes
8230 remain under the control and command of law enforcement and shall not be distributed to a member of
8231 the general public who is not the subject of a criminal investigation. All fixtures, equipment, materials,
8232 and personal property used in substantial connection with (i) the sale or possession of counterfeit cigarettes
8233 in a knowing and intentional violation of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2 or (ii)
8234 the sale or possession of cigarettes in a knowing and intentional violation of § 58.1-1017 or 58.1-1017.1
8235 shall be subject to seizure and forfeiture according to the procedures contained in Chapter 22.1 (§ 19.2-
8236 386.1 et seq.), applied mutatis mutandis.

8237 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
8238 **transactions.**

8239 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
8240 the provisions of Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of
8241 Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor
8242 vehicles, and all other personal and real property of any kind or character, used in substantial connection
8243 with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to
8244 sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana
8245 ~~or possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of §~~
8246 ~~18.2-248.1~~ 4.1-647, or (c) a drug-related offense in violation of § 4.1-661 or 18.2-474.1; (ii) everything
8247 of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of §
8248 18.2-248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-647 or for a controlled substance or marijuana

8249 in violation of § 4.1-661 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable
8250 to such an exchange, together with any interest or profits derived from the investment of such money or
8251 other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless
8252 the minimum prescribed punishment for the violation is a term of not less than five years.

8253 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
8254 Chapter 22.1 (§ 19.2-386.1 et seq.).

8255 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

8256 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
8257 lawful possession of which is not established or the title to which cannot be ascertained, which have come
8258 into the custody of a peace officer or have been seized in connection with violations of Article 6 (§ 4.1-
8259 644 et seq.) of Chapter 6 of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and
8260 disposed of as follows:

8261 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
8262 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
8263 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
8264 Police, or to such police department or sheriff's office for research and training purposes and for
8265 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
8266 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

8267 2. In the event no application is made under subdivision 1, the court shall order the destruction of
8268 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
8269 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
8270 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
8271 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
8272 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
8273 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
8274 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
8275 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal

8276 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
8277 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
8278 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
8279 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
8280 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
8281 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
8282 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
8283 order is directed.

8284 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Article
8285 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be
8286 disposed of as provided by this section until all rights of appeal have been exhausted, except as provided
8287 in § 19.2-386.24.

8288 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
8289 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
8290 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
8291 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
8292 result in the requesting agency's exceeding the limits allowed by this subsection.

8293 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
8294 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
8295 inventory of such substance on a monthly basis, which shall include a description and weight of the
8296 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
8297 and training purposes. A written report outlining the details of the inventory shall be made to the chief
8298 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
8299 shall detail the substances that were used for research and training pursuant to a court order in the
8300 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with
8301 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
8302 and manner of destruction.

8303 § 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.

8304 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
8305 connection with any prosecution or investigation under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title
8306 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10
8307 pounds of the substance randomly selected from the seized substance for representative purposes as
8308 evidence and destroy the remainder of the seized substance.

8309 Before any destruction is carried out under this section, the law-enforcement agency shall cause
8310 the material seized to be photographed with identification case numbers or other means of identification
8311 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
8312 party, if known, or his attorney, at least five days in advance that the photography will take place and that
8313 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
8314 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
8315 destruction of the time and place the destruction will occur. Any notice required under the provisions of
8316 this section shall be by first-class mail to the last known address of the person required to be notified. In
8317 addition to the substance retained for representative purposes as evidence, all photographs and records
8318 made under this section and properly identified shall be admissible in any court proceeding for any
8319 purposes for which the seized substance itself would have been admissible.

8320 § 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled
8321 substances, etc.

8322 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
8323 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
8324 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
8325 prosecution under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.)
8326 of Title 18.2. The court in its order may make provision for ensuring integrity of these items until further
8327 order of the court.

8328 § 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record
8329 information.

8330 A. Criminal history record information shall be disseminated, whether directly or through an
8331 intermediary, only to:

8332 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
8333 purposes of the administration of criminal justice and the screening of an employment application or
8334 review of employment by a criminal justice agency with respect to its own employees or applicants, and
8335 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
8336 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
8337 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
8338 of this subdivision, criminal history record information includes information sent to the Central Criminal
8339 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
8340 time employee of the State Police, a police department or sheriff's office that is a part of or administered
8341 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
8342 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
8343 the purposes of the administration of criminal justice;

8344 2. Such other individuals and agencies that require criminal history record information to
8345 implement a state or federal statute or executive order of the President of the United States or Governor
8346 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
8347 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
8348 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
8349 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

8350 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
8351 provide services required for the administration of criminal justice pursuant to that agreement which shall
8352 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
8353 security and confidentiality of the data;

8354 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
8355 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,

8356 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
8357 security of the data;

8358 5. Agencies of state or federal government that are authorized by state or federal statute or
8359 executive order of the President of the United States or Governor to conduct investigations determining
8360 employment suitability or eligibility for security clearances allowing access to classified information;

8361 6. Individuals and agencies where authorized by court order or court rule;

8362 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
8363 owned, operated or controlled by any political subdivision, and any public service corporation that
8364 operates a public transit system owned by a local government for the conduct of investigations of
8365 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
8366 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
8367 conviction record would be compatible with the nature of the employment, permit, or license under
8368 consideration;

8369 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
8370 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
8371 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
8372 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
8373 with a conviction record would be compatible with the nature of the employment under consideration;

8374 8. Public or private agencies when authorized or required by federal or state law or interstate
8375 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
8376 members of that individual's household, with whom the agency is considering placing a child or from
8377 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
8378 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
8379 not be further disseminated to any party other than a federal or state authority or court as may be required
8380 to comply with an express requirement of law;

8381 9. To the extent permitted by federal law or regulation, public service companies as defined in §
8382 56-1, for the conduct of investigations of applicants for employment when such employment involves

8383 personal contact with the public or when past criminal conduct of an applicant would be incompatible
8384 with the nature of the employment under consideration;

8385 10. The appropriate authority for purposes of granting citizenship and for purposes of international
8386 travel, including, but not limited to, issuing visas and passports;

8387 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
8388 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
8389 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
8390 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
8391 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
8392 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
8393 program as defined in § 15.2-1713.1;

8394 12. Administrators and board presidents of and applicants for licensure or registration as a child
8395 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
8396 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
8397 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
8398 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
8399 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
8400 that the data shall not be further disseminated by the facility or agency to any party other than the data
8401 subject, the Commissioner of Social Services' representative or a federal or state authority or court as may
8402 be required to comply with an express requirement of law for such further dissemination;

8403 13. The school boards of the Commonwealth for the purpose of screening individuals who are
8404 offered or who accept public school employment and those current school board employees for whom a
8405 report of arrest has been made pursuant to § 19.2-83.1;

8406 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
8407 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
8408 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
8409 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

8410 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
8411 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
8412 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
8413 162.9:1, subject to the limitations set out in subsection E;

8414 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
8415 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
8416 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

8417 17. The Virginia Alcoholic Beverage and Cannabis Control Authority for the conduct of
8418 investigations as set forth in § 4.1-103.1;

8419 18. The State Board of Elections and authorized officers and employees thereof and general
8420 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
8421 respect to voter registration, limited to any record of felony convictions;

8422 19. The Commissioner of Behavioral Health and Developmental Services for those individuals
8423 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
8424 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

8425 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
8426 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
8427 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

8428 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
8429 the Department of Education, or the Department of Behavioral Health and Developmental Services for
8430 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
8431 services;

8432 22. The Department of Behavioral Health and Developmental Services and facilities operated by
8433 the Department for the purpose of determining an individual's fitness for employment pursuant to
8434 departmental instructions;

8435 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
8436 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such

8437 records information on behalf of such governing boards or administrators pursuant to a written agreement
8438 with the Department of State Police;

8439 24. Public institutions of higher education and nonprofit private institutions of higher education
8440 for the purpose of screening individuals who are offered or accept employment;

8441 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
8442 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
8443 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
8444 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
8445 history record information obtained pursuant to this section or otherwise use any record of an individual
8446 beyond the purpose that such disclosure was made to the threat assessment team;

8447 26. Executive directors of community services boards or the personnel director serving the
8448 community services board for the purpose of determining an individual's fitness for employment, approval
8449 as a sponsored residential service provider, or permission to enter into a shared living arrangement with a
8450 person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

8451 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
8452 determining an individual's fitness for employment, approval as a sponsored residential service provider,
8453 or permission to enter into a shared living arrangement with a person receiving medical assistance services
8454 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

8455 28. The Commissioner of Social Services for the purpose of locating persons who owe child
8456 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
8457 the name, address, demographics and social security number of the data subject shall be released;

8458 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
8459 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
8460 purpose of determining if any applicant who accepts employment in any direct care position or requests
8461 approval as a sponsored residential service provider or permission to enter into a shared living arrangement
8462 with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime

8463 that affects his fitness to have responsibility for the safety and well-being of individuals with mental
8464 illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

8465 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
8466 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
8467 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

8468 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
8469 for the purpose of determining if any person being considered for election to any judgeship has been
8470 convicted of a crime;

8471 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
8472 determining an individual's fitness for employment in positions designated as sensitive under Department
8473 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

8474 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
8475 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
8476 Violent Predators Act (§ 37.2-900 et seq.);

8477 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
8478 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
8479 companies, for the conduct of investigations of applications for employment or for access to facilities, by
8480 contractors, leased laborers, and other visitors;

8481 35. Any employer of individuals whose employment requires that they enter the homes of others,
8482 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

8483 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
8484 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
8485 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
8486 subject to the restriction that the data shall not be further disseminated by the agency to any party other
8487 than a federal or state authority or court as may be required to comply with an express requirement of law
8488 for such further dissemination, subject to limitations set out in subsection G;

8489 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
8490 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
8491 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
8492 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
8493 administered by the Department of Medical Assistance Services;

8494 38. The State Corporation Commission for the purpose of investigating individuals who are current
8495 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
8496 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other
8497 provision of law, if an application is denied based in whole or in part on information obtained from the
8498 Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of
8499 Financial Institutions or his designee may disclose such information to the applicant or its designee;

8500 39. The Department of Professional and Occupational Regulation for the purpose of investigating
8501 individuals for initial licensure pursuant to § 54.1-2106.1;

8502 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
8503 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
8504 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
8505 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

8506 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

8507 42. The State Treasurer for the purpose of determining whether a person receiving compensation
8508 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

8509 43. The Department of Social Services and directors of local departments of social services for the
8510 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
8511 or a local department of social services for the provision of child care services for which child care subsidy
8512 payments may be provided;

8513 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
8514 of a juvenile's household when completing a predispositional or postdispositional report required by §
8515 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

8516 45. The State Corporation Commission, for the purpose of screening applicants for insurance
8517 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

8518 46. Other entities as otherwise provided by law.

8519 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
8520 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
8521 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
8522 designated in the order on whom a report has been made under the provisions of this chapter.

8523 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
8524 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
8525 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
8526 copy of conviction data covering the person named in the request to the person making the request;
8527 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
8528 making of such request. A person receiving a copy of his own conviction data may utilize or further
8529 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
8530 subject, the person making the request shall be furnished at his cost a certification to that effect.

8531 B. Use of criminal history record information disseminated to noncriminal justice agencies under
8532 this section shall be limited to the purposes for which it was given and may not be disseminated further.

8533 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
8534 history record information for employment or licensing inquiries except as provided by law.

8535 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
8536 Exchange prior to dissemination of any criminal history record information on offenses required to be
8537 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
8538 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
8539 time is of the essence and the normal response time of the Exchange would exceed the necessary time
8540 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
8541 history record information that is required to be reported to the Central Criminal Records Exchange may
8542 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of

8543 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
8544 justice agency maintaining the record as required by § 15.2-1722.

8545 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
8546 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
8547 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

8548 F. Criminal history information provided to licensed assisted living facilities and licensed adult
8549 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
8550 for any offense specified in § 63.2-1720.

8551 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
8552 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
8553 of barrier crime in § 19.2-392.02.

8554 H. Upon receipt of a written request from an employer or prospective employer, the Central
8555 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
8556 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
8557 in the request to the employer or prospective employer making the request, provided that the person on
8558 whom the data is being obtained has consented in writing to the making of such request and has presented
8559 a photo-identification to the employer or prospective employer. In the event no conviction data is
8560 maintained on the person named in the request, the requesting employer or prospective employer shall be
8561 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
8562 forms provided by the Exchange.

8563 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
8564 information pursuant to the rules of court for obtaining discovery or for review by the court.

8565 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

8566 A. Criminal history record information shall be disseminated, whether directly or through an
8567 intermediary, only to:

8568 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
8569 purposes of the administration of criminal justice and the screening of an employment application or

8570 review of employment by a criminal justice agency with respect to its own employees or applicants, and
8571 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
8572 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and
8573 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of
8574 this subdivision, criminal history record information includes information sent to the Central Criminal
8575 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
8576 time employee of the State Police, a police department or sheriff's office that is a part of or administered
8577 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
8578 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
8579 the purposes of the administration of criminal justice;

8580 2. Such other individuals and agencies that require criminal history record information to
8581 implement a state or federal statute or executive order of the President of the United States or Governor
8582 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
8583 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
8584 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
8585 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

8586 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
8587 provide services required for the administration of criminal justice pursuant to that agreement which shall
8588 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
8589 security and confidentiality of the data;

8590 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
8591 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
8592 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
8593 security of the data;

8594 5. Agencies of state or federal government that are authorized by state or federal statute or
8595 executive order of the President of the United States or Governor to conduct investigations determining
8596 employment suitability or eligibility for security clearances allowing access to classified information;

8597 6. Individuals and agencies where authorized by court order or court rule;

8598 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
8599 owned, operated or controlled by any political subdivision, and any public service corporation that
8600 operates a public transit system owned by a local government for the conduct of investigations of
8601 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
8602 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
8603 conviction record would be compatible with the nature of the employment, permit, or license under
8604 consideration;

8605 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
8606 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
8607 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
8608 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
8609 with a conviction record would be compatible with the nature of the employment under consideration;

8610 8. Public or private agencies when authorized or required by federal or state law or interstate
8611 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
8612 members of that individual's household, with whom the agency is considering placing a child or from
8613 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
8614 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
8615 not be further disseminated to any party other than a federal or state authority or court as may be required
8616 to comply with an express requirement of law;

8617 9. To the extent permitted by federal law or regulation, public service companies as defined in §
8618 56-1, for the conduct of investigations of applicants for employment when such employment involves
8619 personal contact with the public or when past criminal conduct of an applicant would be incompatible
8620 with the nature of the employment under consideration;

8621 10. The appropriate authority for purposes of granting citizenship and for purposes of international
8622 travel, including, but not limited to, issuing visas and passports;

8623 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
8624 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
8625 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
8626 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
8627 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
8628 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
8629 program as defined in § 15.2-1713.1;

8630 12. Administrators and board presidents of and applicants for licensure or registration as a child
8631 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
8632 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
8633 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
8634 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
8635 not be further disseminated by the facility or agency to any party other than the data subject, the
8636 Commissioner of Social Services' representative or a federal or state authority or court as may be required
8637 to comply with an express requirement of law for such further dissemination;

8638 13. The school boards of the Commonwealth for the purpose of screening individuals who are
8639 offered or who accept public school employment and those current school board employees for whom a
8640 report of arrest has been made pursuant to § 19.2-83.1;

8641 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
8642 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
8643 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
8644 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

8645 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
8646 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
8647 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
8648 162.9:1, subject to the limitations set out in subsection E;

8649 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
8650 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
8651 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

8652 17. The Virginia Alcoholic Beverage and Cannabis Control Authority for the conduct of
8653 investigations as set forth in § 4.1-103.1;

8654 18. The State Board of Elections and authorized officers and employees thereof and general
8655 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
8656 respect to voter registration, limited to any record of felony convictions;

8657 19. The Commissioner of Behavioral Health and Developmental Services for those individuals
8658 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
8659 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

8660 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
8661 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
8662 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

8663 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
8664 the Department of Education, or the Department of Behavioral Health and Developmental Services for
8665 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
8666 services;

8667 22. The Department of Behavioral Health and Developmental Services and facilities operated by
8668 the Department for the purpose of determining an individual's fitness for employment pursuant to
8669 departmental instructions;

8670 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
8671 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
8672 records information on behalf of such governing boards or administrators pursuant to a written agreement
8673 with the Department of State Police;

8674 24. Public institutions of higher education and nonprofit private institutions of higher education
8675 for the purpose of screening individuals who are offered or accept employment;

8676 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
8677 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
8678 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
8679 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
8680 history record information obtained pursuant to this section or otherwise use any record of an individual
8681 beyond the purpose that such disclosure was made to the threat assessment team;

8682 26. Executive directors of community services boards or the personnel director serving the
8683 community services board for the purpose of determining an individual's fitness for employment, approval
8684 as a sponsored residential service provider, or permission to enter into a shared living arrangement with a
8685 person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

8686 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
8687 determining an individual's fitness for employment, approval as a sponsored residential service provider,
8688 or permission to enter into a shared living arrangement with a person receiving medical assistance services
8689 pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

8690 28. The Commissioner of Social Services for the purpose of locating persons who owe child
8691 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
8692 the name, address, demographics and social security number of the data subject shall be released;

8693 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
8694 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
8695 purpose of determining if any applicant who accepts employment in any direct care position or requests
8696 approval as a sponsored residential service provider or permission to enter into a shared living arrangement
8697 with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime
8698 that affects his fitness to have responsibility for the safety and well-being of individuals with mental
8699 illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

8700 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
8701 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
8702 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

8703 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
8704 for the purpose of determining if any person being considered for election to any judgeship has been
8705 convicted of a crime;

8706 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
8707 determining an individual's fitness for employment in positions designated as sensitive under Department
8708 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

8709 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
8710 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
8711 Violent Predators Act (§ 37.2-900 et seq.);

8712 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
8713 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
8714 companies, for the conduct of investigations of applications for employment or for access to facilities, by
8715 contractors, leased laborers, and other visitors;

8716 35. Any employer of individuals whose employment requires that they enter the homes of others,
8717 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

8718 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
8719 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
8720 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
8721 subject to the restriction that the data shall not be further disseminated by the agency to any party other
8722 than a federal or state authority or court as may be required to comply with an express requirement of law
8723 for such further dissemination, subject to limitations set out in subsection G;

8724 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
8725 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
8726 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
8727 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
8728 administered by the Department of Medical Assistance Services;

8729 38. The State Corporation Commission for the purpose of investigating individuals who are current
8730 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
8731 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
8732 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
8733 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
8734 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
8735 applicant or its designee;

8736 39. The Department of Professional and Occupational Regulation for the purpose of investigating
8737 individuals for initial licensure pursuant to § 54.1-2106.1;

8738 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
8739 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
8740 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
8741 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

8742 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

8743 42. The State Treasurer for the purpose of determining whether a person receiving compensation
8744 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

8745 43. The Department of Education or its agents or designees for the purpose of screening individuals
8746 seeking to enter into a contract with the Department of Education or its agents or designees for the
8747 provision of child care services for which child care subsidy payments may be provided;

8748 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
8749 of a juvenile's household when completing a predispositional or postdispositional report required by §
8750 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

8751 45. The State Corporation Commission, for the purpose of screening applicants for insurance
8752 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

8753 46. Administrators and board presidents of and applicants for licensure or registration as a child
8754 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
8755 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of

8756 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
8757 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
8758 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
8759 representative, or a federal or state authority or court as may be required to comply with an express
8760 requirement of law for such further dissemination; and

8761 47. Other entities as otherwise provided by law.

8762 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
8763 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
8764 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
8765 designated in the order on whom a report has been made under the provisions of this chapter.

8766 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
8767 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
8768 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
8769 copy of conviction data covering the person named in the request to the person making the request;
8770 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
8771 making of such request. A person receiving a copy of his own conviction data may utilize or further
8772 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
8773 subject, the person making the request shall be furnished at his cost a certification to that effect.

8774 B. Use of criminal history record information disseminated to noncriminal justice agencies under
8775 this section shall be limited to the purposes for which it was given and may not be disseminated further.

8776 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
8777 history record information for employment or licensing inquiries except as provided by law.

8778 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
8779 Exchange prior to dissemination of any criminal history record information on offenses required to be
8780 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
8781 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
8782 time is of the essence and the normal response time of the Exchange would exceed the necessary time

8783 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
8784 history record information that is required to be reported to the Central Criminal Records Exchange may
8785 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
8786 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
8787 justice agency maintaining the record as required by § 15.2-1722.

8788 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
8789 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
8790 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

8791 F. Criminal history information provided to licensed assisted living facilities and licensed adult
8792 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
8793 for any offense specified in § 63.2-1720.

8794 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
8795 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
8796 of barrier crime in § 19.2-392.02.

8797 H. Upon receipt of a written request from an employer or prospective employer, the Central
8798 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
8799 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
8800 in the request to the employer or prospective employer making the request, provided that the person on
8801 whom the data is being obtained has consented in writing to the making of such request and has presented
8802 a photo-identification to the employer or prospective employer. In the event no conviction data is
8803 maintained on the person named in the request, the requesting employer or prospective employer shall be
8804 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
8805 forms provided by the Exchange.

8806 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
8807 information pursuant to the rules of court for obtaining discovery or for review by the court.

8808 § 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by
8809 businesses and organizations regarding employees or volunteers providing care to children or the
8810 elderly or disabled.

8811 A. For purposes of this section:

8812 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
8813 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
8814 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,
8815 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-
8816 50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-
8817 52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,
8818 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony
8819 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
8820 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-
8821 67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-
8822 87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-
8823 286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony
8824 violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-
8825 357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-
8826 370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1,
8827 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-
8828 406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2,
8829 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
8830 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws
8831 of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or
8832 any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-
8833 645, 4.1-658, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-
8834 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 substantially similar

8835 offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially
8836 similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in
8837 the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant
8838 to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with
8839 Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the
8840 person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to §
8841 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which
8842 registration in a sex offender and crimes against minors registry is required under the laws of the
8843 jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii),
8844 (iv), or (v) unless five years have elapsed from the date of the conviction.

8845 "Barrier crime information" means the following facts concerning a person who has been arrested
8846 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
8847 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
8848 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
8849 the disposition of the charge, and any other information that may be useful in identifying persons arrested
8850 for or convicted of a barrier crime.

8851 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
8852 recreation to children or the elderly or disabled.

8853 "Department" means the Department of State Police.

8854 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
8855 or seeks to volunteer for a qualified entity.

8856 "Identification document" means a document made or issued by or under the authority of the
8857 United States government, a state, a political subdivision of a state, a foreign government, political
8858 subdivision of a foreign government, an international governmental or an international quasi-
8859 governmental organization that, when completed with information concerning a particular individual, is
8860 of a type intended or commonly accepted for the purpose of identification of individuals.

8861 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
8862 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
8863 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
8864 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
8865 operate a qualified entity.

8866 "Qualified entity" means a business or organization that provides care to children or the elderly or
8867 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
8868 pursuant to subdivision A 7 of § 63.2-1715.

8869 B. A qualified entity may request the Department of State Police to conduct a national criminal
8870 background check on any provider who is employed by such entity. No qualified entity may request a
8871 national criminal background check on a provider until such provider has:

- 8872 1. Been fingerprinted; and
- 8873 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
8874 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
8875 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
8876 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
8877 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
8878 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
8879 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
8880 prompt determination as to the validity of such challenge before a final determination is made by the
8881 Department; and (v) a notice to the provider that prior to the completion of the background check the
8882 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
8883 for whom the qualified entity provides care.

8884 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
8885 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
8886 B, the Department shall make a determination whether the provider has been convicted of or is the subject
8887 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime

8888 information, the Department shall access the national criminal history background check system, which
8889 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
8890 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
8891 the Department receives a background report lacking disposition data, the Department shall conduct
8892 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
8893 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
8894 days.

8895 D. Any background check conducted pursuant to this section for a provider employed by a private
8896 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
8897 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
8898 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

8899 E. Any background check conducted pursuant to this section for a provider employed by a
8900 governmental entity shall be provided to that entity.

8901 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
8902 national criminal background check, the Department and the Federal Bureau of Investigation may each
8903 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
8904 with the fingerprints.

8905 G. The failure to request a criminal background check pursuant to subsection B shall not be
8906 considered negligence per se in any civil action.

8907 H. [Expired.]

8908 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses**
8909 **and organizations regarding employees or volunteers providing care to children or the elderly or**
8910 **disabled.**

8911 A. For purposes of this section:

8912 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
8913 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
8914 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,

8915 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-
8916 50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-
8917 52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2,
8918 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony
8919 violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1,
8920 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-
8921 67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-
8922 87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-
8923 286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony
8924 violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-
8925 357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-
8926 370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1,
8927 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-
8928 406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2,
8929 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480,
8930 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws
8931 of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or
8932 any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-
8933 645, 4.1-658, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-
8934 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 substantially similar
8935 offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially
8936 similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in
8937 the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant
8938 to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with
8939 Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the
8940 person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to §
8941 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which

8942 registration in a sex offender and crimes against minors registry is required under the laws of the
8943 jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii),
8944 (iv), or (v) unless five years have elapsed from the date of the conviction.

8945 "Barrier crime information" means the following facts concerning a person who has been arrested
8946 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
8947 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
8948 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
8949 the disposition of the charge, and any other information that may be useful in identifying persons arrested
8950 for or convicted of a barrier crime.

8951 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
8952 recreation to children or the elderly or disabled.

8953 "Department" means the Department of State Police.

8954 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
8955 or seeks to volunteer for a qualified entity.

8956 "Identification document" means a document made or issued by or under the authority of the
8957 United States government, a state, a political subdivision of a state, a foreign government, political
8958 subdivision of a foreign government, an international governmental or an international quasi-
8959 governmental organization that, when completed with information concerning a particular individual, is
8960 of a type intended or commonly accepted for the purpose of identification of individuals.

8961 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
8962 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
8963 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
8964 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
8965 operate a qualified entity.

8966 "Qualified entity" means a business or organization that provides care to children or the elderly or
8967 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
8968 pursuant to subdivision A 7 of § 22.1-289.030.

8969 B. A qualified entity may request the Department of State Police to conduct a national criminal
8970 background check on any provider who is employed by such entity. No qualified entity may request a
8971 national criminal background check on a provider until such provider has:

8972 1. Been fingerprinted; and

8973 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
8974 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
8975 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
8976 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
8977 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
8978 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
8979 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
8980 prompt determination as to the validity of such challenge before a final determination is made by the
8981 Department; and (v) a notice to the provider that prior to the completion of the background check the
8982 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
8983 for whom the qualified entity provides care.

8984 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
8985 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
8986 B, the Department shall make a determination whether the provider has been convicted of or is the subject
8987 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
8988 information, the Department shall access the national criminal history background check system, which
8989 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
8990 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
8991 the Department receives a background report lacking disposition data, the Department shall conduct
8992 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
8993 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
8994 days.

8995 D. Any background check conducted pursuant to this section for a provider employed by a private
8996 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
8997 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
8998 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

8999 E. Any background check conducted pursuant to this section for a provider employed by a
9000 governmental entity shall be provided to that entity.

9001 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
9002 national criminal background check, the Department and the Federal Bureau of Investigation may each
9003 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
9004 with the fingerprints.

9005 G. The failure to request a criminal background check pursuant to subsection B shall not be
9006 considered negligence per se in any civil action.

9007 H. [Expired.]

9008 **§ 19.2-392.1. Statement of policy.**

9009 The General Assembly finds that arrest records can be a hindrance to ~~an innocent~~ a citizen's ability
9010 to obtain employment, and an education ~~and to obtain credit~~. It further finds that the police and court
9011 records of those of its citizens who have been absolutely pardoned for crimes for which they have been
9012 unjustly convicted or who have demonstrated their rehabilitation can also be a hindrance. This chapter is
9013 intended to protect such persons from the unwarranted damage ~~which~~ that may occur as a result of being
9014 arrested and convicted.

9015 **§ 19.2-392.2. Expungement of police and court records.**

9016 A. If a person is charged with the commission of a crime, a civil offense, or any offense defined
9017 in Title 18.2, and

9018 ~~1. Is (i) the person is acquitted, or~~

9019 ~~2. A; (ii) a nolle prosequi is taken or; (iii) the charge is otherwise dismissed, including dismissal~~
9020 by accord and satisfaction pursuant to § 19.2-151; or (iv) (a) the person is convicted or adjudicated
9021 delinquent of a felony violation of former § 18.2-248.1 or charged under that section and the charge is

9022 deferred and dismissed, (b) all court costs and fines and all orders of restitution have been satisfied, and
9023 (c) five years have passed since the date of completion of all terms of sentencing and probation, he may
9024 file a petition setting forth the relevant facts and requesting expungement of the police records and the
9025 court records relating to the arrest, charge, conviction, adjudication, or civil offense.

9026 B. If any person whose name or other identification has been used without his consent or
9027 authorization by another person who has been charged or arrested using such name or identification, he
9028 may file a petition with the court disposing of the charge for relief pursuant to this section. Such person
9029 shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under
9030 this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-
9031 enforcement agency.

9032 C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall
9033 be filed in the circuit court of the county or city in which the case was disposed of ~~by acquittal or being~~
9034 ~~otherwise dismissed~~ and shall contain, except where not reasonably available, the date of arrest and the
9035 name of the arresting agency. Where this information is not reasonably available, the petition shall state
9036 the reason for such unavailability. The petition shall further state the specific criminal charge, conviction,
9037 adjudication, or civil offense to be expunged, the date of final disposition of the charge, conviction,
9038 adjudication, or civil offense as set forth in the petition, the petitioner's date of birth, and the full name
9039 used by the petitioner at the time of arrest.

9040 D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or
9041 county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer
9042 to the petition or may give written notice to the court that he does not object to the petition within 21 days
9043 after it is served on him.

9044 E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's
9045 fingerprints and shall provide that agency with a copy of the petition for expungement. The law-
9046 enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE)
9047 with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a
9048 copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry

9049 that the petitioner wishes to expunge, if applicable, and the set of fingerprints. Upon completion of the
9050 hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the
9051 entry of an order of expungement or an order denying the petition for expungement, the court shall cause
9052 the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the
9053 petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the
9054 clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

9055 F. After receiving the criminal history record information from the CCRE, the court shall conduct
9056 a hearing on the petition. If the court finds that the continued existence and possible dissemination of
9057 information relating to the arrest, charge, conviction, adjudication, or civil offense of the petitioner causes
9058 or may cause circumstances ~~which~~ that constitute a manifest injustice to the petitioner, it shall enter an
9059 order requiring the expungement of the police and court records, including electronic records, relating to
9060 the arrest, charge, conviction, adjudication, or civil offense. Otherwise, it shall deny the petition. However,
9061 if the petitioner has no prior criminal record and the arrest, charge, or conviction was for a misdemeanor
9062 violation or the charge was for a civil offense, the petitioner shall be entitled, in the absence of good cause
9063 shown to the contrary by the Commonwealth, to expungement of the police and court records relating to
9064 the arrest, charge, conviction, adjudication, or civil offense and the court shall enter an order of
9065 expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i)
9066 gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii)
9067 when the arrest, charge, conviction, or adjudication to be expunged is a felony, stipulates in such written
9068 notice that the continued existence and possible dissemination of information relating to the arrest of the
9069 petitioner causes or may cause circumstances ~~which~~ that constitute a manifest injustice to the petitioner,
9070 the court may enter an order of expungement without conducting a hearing.

9071 G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by
9072 the decision of the court may appeal, as provided by law in civil cases.

9073 H. Notwithstanding any other provision of this section, when the charge is dismissed because the
9074 court finds that the person arrested or charged is not the person named in the summons, warrant, indictment
9075 or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or

9076 charged, enter an order requiring expungement of the police and court records relating to the charge. Such
9077 order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection
9078 and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon
9079 the entry of such order, it shall be treated as provided in subsection K.

9080 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-
9081 402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall
9082 enter an order requiring expungement of the police and court records relating to the charge and conviction.
9083 Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon
9084 the entry of such order, it shall be treated as provided in subsection K.

9085 J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13,
9086 the court shall enter an order requiring expungement of the police and court records relating to the charge
9087 and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this
9088 subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

9089 K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such
9090 order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations
9091 adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of
9092 such records shall be effected.

9093 L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the
9094 Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the
9095 petitioner such costs paid by the petitioner.

9096 M. Any order entered where (i) the court or parties failed to strictly comply with the procedures
9097 set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable
9098 upon motion and notice made within three years of the entry of such order.

9099 **§ 19.2-392.2:1. Former marijuana offenses; automatic expungement.**

9100 A. Records relating to the arrest, criminal charge, conviction, or civil offense of a person for a
9101 misdemeanor violation of former § 18.2-248.1 or subsection A of § 18.2-265.3 as it relates to marijuana,
9102 or a violation of former § 18.2-250.1, including any violation charged under either section and the charge

9103 was deferred and dismissed, shall be expunged no later than (i) July 1, 2022, or (ii) if, on July 1, 2022, the
9104 person who is the subject of the arrest, criminal charge, conviction, or civil offense has not completed all
9105 terms of sentencing and probation, including satisfaction of all court costs and fines and all orders of
9106 restitution, three months after the date of completion of all terms of sentencing and probation.

9107 B. The Department of State Police shall determine which offenses in the Central Criminal Records
9108 Exchange meet the criteria for automatic expungement set forth in subsection A. The Department of State
9109 Police shall provide an electronic list, on at least a monthly basis, of all offenses that meet the criteria for
9110 automatic expungement sent to the Executive Secretary of the Supreme Court and to any circuit court
9111 clerk who maintains a case management system that interfaces with the Department of State Police under
9112 subsection B of § 17.1-502. The Executive Secretary, on at least a monthly basis, shall provide an
9113 electronic list of all offenses that meet the criteria for automatic expungement to the clerk of each circuit
9114 court in the jurisdiction where the case was finalized, if such circuit court clerk participates in the case
9115 management system maintained by the Executive Secretary.

9116 C. Upon receipt of the electronic list provided under subsection B, on at least a monthly basis the
9117 clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall enter such
9118 order directing that the offenses that meet the criteria for automatic expungement be automatically
9119 expunged. Such order shall contain the names of the persons charged with or convicted of such offenses.

9120 D. The clerk of each circuit court shall provide, on a monthly basis, an electronic copy of any order
9121 entered under subsection C to the Department of State Police and to any agency or individual known to
9122 maintain or to have obtained the records to be expunged. Upon receipt of such order, the Department of
9123 State Police and any such agency or individual shall expunge such records under the process set forth by
9124 the Department of State Police pursuant to rules and regulations adopted pursuant to § 9.1-134.

9125 Any records maintained electronically which are transformed by whatever means to an offline
9126 system or to a confidential and secure area inaccessible from normal use within the system in which the
9127 record is maintained shall be considered expunged, provided that such records are accessible only to the
9128 manager of the records. Records relating to the arrest, criminal charge, or conviction of a person for a
9129 violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and

9130 dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open
9131 for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make
9132 the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid
9133 in the preparation of a pretrial investigation report prepared by a local pretrial services agency established
9134 pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation
9135 report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines
9136 worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation
9137 services agencies established pursuant to the Comprehensive Community Corrections Act for Local-
9138 Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders
9139 and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing
9140 the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys
9141 for the Commonwealth to secure information incidental to sentencing and to attorneys for the
9142 Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets
9143 pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police,
9144 a police department, or sheriff's office that is a part of or administered by the Commonwealth or any
9145 political subdivision thereof, and who is responsible for the prevention and detection of crime and the
9146 enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the
9147 administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing
9148 Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a
9149 police department or sheriff's office that is a part of or administered by the Commonwealth or any political
9150 subdivision thereof for the purpose of screening any person for full-time or part-time employment with
9151 the State Police or a police department or sheriff's office that is a part of or administered by the
9152 Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee
9153 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
9154 medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the
9155 Department of Forensic Science for the purpose of screening any person for full-time or part-time
9156 employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a

9157 locality, or his designee who shall be an individual employed as a public safety official of the locality, that
9158 has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening
9159 any person who applies to be a volunteer with or an employee of an emergency medical services agency
9160 as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor
9161 Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. §
9162 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
9163 Administration.

9164 The Department of State Police shall not be required to notify any such agency or individual that
9165 it possesses records subject to an expungement order and no such agency or individual responsible for
9166 expunging records in their possession shall be required to notify the Department of State Police after
9167 complying with an expungement order.

9168 E. The Department of Motor Vehicles (the Department) shall not expunge any conviction (i) in
9169 violation of federal regulatory record retention requirements or (ii) until three years after all statutory
9170 requirements associated with a driver's license suspension have been complied with if the Department is
9171 required to suspend a person's driving privileges as a result of a conviction ordered to be expunged. Upon
9172 receipt of an order of expungement, the Department shall expunge all records if the federal regulatory
9173 record retention period has run, or three years have passed since the date that all statutory requirements
9174 associated with a suspension have been satisfied. However, if the Department cannot expunge a conviction
9175 pursuant to this subsection at the time it is ordered, the Department shall maintain a list including (a) the
9176 record not eligible for expungement, (b) the reason the record could not be expunged, (c) the authority
9177 prohibiting expungement at the time it is ordered, and (d) if known as the time that expungement is
9178 ordered, the date on which the record may be expunged.

9179 **§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of**
9180 **state and local governments.**

9181 A. An employer or educational institution shall not, in any application, interview, or otherwise,
9182 require an applicant for employment or admission to disclose information concerning any arrest~~or~~,
9183 criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not,

9184 in answer to any question concerning any arrest-~~or,~~ criminal charge-~~that has not resulted in a,~~ conviction,
9185 or civil offense, include a reference to or information concerning arrests-~~or,~~ charges, convictions, or civil
9186 offenses that have been expunged.

9187 B. Agencies, officials, and employees of the state and local governments shall not, in any
9188 application, interview, or otherwise, require an applicant for a license, permit, registration, or
9189 governmental service to disclose information concerning any arrest-~~or,~~ criminal charge against him,
9190 conviction, or civil offense that has been expunged. An applicant need not, in answer to any question
9191 concerning any arrest-~~or,~~ criminal charge-~~that has not resulted in a,~~ conviction, or civil offense, include a
9192 reference to or information concerning an arrest, charges, convictions, or civil offenses that have been
9193 expunged. Such an application may not be denied solely because of the applicant's refusal to disclose
9194 information concerning any arrest-~~or,~~ criminal charge against him, conviction, or civil offense that has
9195 been expunged.

9196 C. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each
9197 violation.

9198 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine**
9199 **products.**

9200 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
9201 prescribed by the Board of Education.

9202 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
9203 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
9204 Alcoholic Beverage and Cannabis Control Authority shall provide educational materials to the
9205 Department of Education. The Department of Education shall review and shall distribute such materials
9206 as are approved to the public schools.

9207 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
9208 shall distribute to each local school division educational materials concerning the health and safety risks
9209 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
9210 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,

9211 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
9212 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
9213 educational materials.

9214 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

9215 A. School boards shall expel from school attendance any student whom such school board has
9216 determined, in accordance with the procedures set forth in this article, to have brought a controlled
9217 substance, or imitation controlled substance, ~~or marijuana~~ as those terms are defined in § 18.2-247 or
9218 marijuana as defined in § 4.1-600 onto school property or to a school-sponsored activity. A school
9219 administrator, pursuant to school board policy, or a school board may, however, determine, based on the
9220 facts of a particular situation, that special circumstances exist and no disciplinary action or another
9221 disciplinary action or another term of expulsion is appropriate. A school board may, by regulation,
9222 authorize the division superintendent or his designee to conduct a preliminary review of such cases to
9223 determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure
9224 that, if a determination is made that another disciplinary action is appropriate, any such subsequent
9225 disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this
9226 section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

9227 B. Each school board shall revise its standards of student conduct to incorporate the requirements
9228 of this section no later than three months after the date on which this act becomes effective.

9229 **§ 23.1-609. Surviving spouses and children of certain individuals; tuition and fee waivers.**

9230 A. The surviving spouse and any child between the ages of 16 and 25 of an individual who was
9231 killed in the line of duty while employed or serving as a (i) law-enforcement officer, including as a campus
9232 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8, sworn law-enforcement officer,
9233 firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the
9234 Virginia Alcoholic Beverage and Cannabis Control Authority, state correctional, regional or local jail
9235 officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff; (ii) member of the Virginia
9236 National Guard while serving on official state duty or federal duty under Title 32 of the United States
9237 Code; or (iii) member of the Virginia Defense Force while serving on official state duty, and any individual

9238 whose spouse was killed in the line of duty while employed or serving in any of such occupations, is
9239 entitled to a waiver of undergraduate tuition and mandatory fees at any public institution of higher
9240 education under the following conditions:

9241 1. The chief executive officer of the deceased individual's employer certifies that such individual
9242 was so employed and was killed in the line of duty while serving or living in the Commonwealth; and

9243 2. The surviving spouse or child is admitted to, enrolls at, and is in attendance at such institution
9244 and applies to such institution for the waiver. Waiver recipients who make satisfactory academic progress
9245 are eligible for renewal of such waiver.

9246 B. Institutions that grant such waivers shall waive the amounts payable for tuition, institutional
9247 charges and mandatory educational and auxiliary fees, and books and supplies but shall not waive user
9248 fees such as room and board charges.

9249 C. Each public institution of higher education shall include in its catalog or equivalent publication
9250 a statement describing the benefits available pursuant to this section.

9251 **§ 23.1-1301. Governing boards; powers.**

9252 A. The board of visitors of each baccalaureate public institution of higher education or its designee
9253 may:

9254 1. Make regulations and policies concerning the institution;

9255 2. Manage the funds of the institution and approve an annual budget;

9256 3. Appoint the chief executive officer of the institution;

9257 4. Appoint professors and fix their salaries; and

9258 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

9259 B. The governing board of each public institution of higher education or its designee may:

9260 1. In addition to the powers set forth in Restructured Higher Education Financial and
9261 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
9262 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
9263 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
9264 and administered in the same manner as all other gifts and bequests;

- 9265 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
9266 purposes on any property owned by the institution;
- 9267 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
9268 maintained, or controlled by the institution;
- 9269 4. Adopt regulations or institution policies for the employment and dismissal of professors,
9270 teachers, instructors, and other employees;
- 9271 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
9272 to the regulations or institution policies required pursuant to § 23.1-1303;
- 9273 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
9274 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
9275 by such regulations or policies;
- 9276 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
9277 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
9278 the awareness and prevention of sexual crimes committed upon students;
- 9279 8. Establish guidelines for the initiation or induction of students into any social fraternity or
9280 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;
- 9281 9. Assign any interest it possesses in intellectual property or in materials in which the institution
9282 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
9283 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
9284 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
9285 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
9286 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and
9287 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
9288 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
9289 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
9290 In the event the Governor does not approve such transfer, the materials shall remain the property of the
9291 respective institutions and may be used and developed in any manner permitted by law;

9292 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business as a
9293 "state public body" for purposes of subsection D of § 2.2-3708.2; and

9294 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
9295 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
9296 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
9297 statutes and local ordinances with respect to offenses occurring on the property of the institution.

9298 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

9299 Upon petition, a circuit court may remove from office any elected officer or officer who has been
9300 appointed to fill an elective office, residing within the jurisdiction of the court:

9301 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that
9302 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse
9303 effect upon the conduct of the office;

9304 2. Upon conviction of a misdemeanor pursuant to Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title
9305 4.1 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and
9306 after all rights of appeal have terminated involving the:

9307 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or
9308 distribute a controlled substance or marijuana;

9309 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
9310 paraphernalia; or

9311 c. Possession of any controlled substance or marijuana and such conviction under subdivision a,
9312 b, or c has a material adverse effect upon the conduct of such office;

9313 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a
9314 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the
9315 conduct of such office; or

9316 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of
9317 § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into
9318 dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of

9319 age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose
9320 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of
9321 such office.

9322 The petition must be signed by a number of registered voters who reside within the jurisdiction of
9323 the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that
9324 the officer holds.

9325 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be
9326 subsequently subject to the provisions of this section for the same criminal offense.

9327 **§ 32.1-357. Board of Trustees; appointment; officers; quorum; executive committee;**
9328 **compensation and expenses.**

9329 A. The Foundation shall be governed and administered by a Board of Trustees consisting of 23
9330 members. Two members shall be appointed by the Speaker of the House of Delegates from among the
9331 membership of the House of Delegates, one representing rural interests and one representing urban
9332 interests; two members shall be appointed by the Senate Committee on Rules, one representing rural
9333 interests and one representing urban interests, from among the membership of the Senate; two members
9334 shall be the State Health Commissioner ~~of the Department of Health~~ or his designee and the Chairman of
9335 the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority or his
9336 designee; and 17 nonlegislative citizen members shall be appointed by the Governor, subject to
9337 confirmation by the General Assembly, as follows: (i) five designated representatives of public health
9338 organizations, such as the American Cancer Society, American Heart Association, Virginia Pediatric
9339 Society, Virginia Academy of Family Physicians, Virginia Dental Association, American Lung
9340 Association of Virginia, Medical Society of Virginia, Virginia Association of School Nurses, Virginia
9341 Nurses Association, and the Virginia Thoracic Society; (ii) four health professionals in the fields of
9342 oncology, cardiology, pulmonary medicine, and pediatrics; and (iii) eight citizens at large, including two
9343 youths. Of the eight citizen at large members, three adults shall be appointed by the Governor from a list
9344 of six provided by members of the General Assembly appointed to the Foundation and one member who

9345 is under the age of 18 years shall be appointed by the Governor from a list of three provided by the
9346 members of the General Assembly appointed to the Foundation.

9347 Legislative members and the State Health Commissioner ~~of the Department of Health~~ and the
9348 Chairman of the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority
9349 shall serve terms coincident with their terms of office. Following the initial staggering of terms,
9350 nonlegislative citizen members shall serve four-year terms. Vacancies in the membership of the Board
9351 shall be filled by appointment for the unexpired portion of the term. Vacancies shall be filled in the same
9352 manner as the original appointments. Legislative members may be reappointed for successive terms. No
9353 nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms;
9354 however, after the expiration of a term of three years or less, or after the expiration of the remainder of a
9355 term to which he was appointed to fill a vacancy, two additional terms may be served by such member if
9356 appointed thereto. Immediately after such appointment, the members shall enter upon the performance of
9357 their duties.

9358 B. The Foundation shall appoint from the membership of the Board a chairman and vice-chairman,
9359 both of whom shall serve in such capacities at the pleasure of the Foundation. The chairman, or in his
9360 absence, the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the
9361 Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall
9362 meet annually or more frequently at the call of the chairman.

9363 The Board may establish an executive committee composed of the chairman, vice-chairman, and
9364 three additional members elected by the Board from its membership. The chairman of the Board shall
9365 serve as the chairman of the executive committee and shall preside over its meetings. In the absence of
9366 the chairman, the vice-chairman shall preside. The executive committee may exercise the powers and
9367 transact the business of the Board in the absence of the Board or when otherwise directed or authorized
9368 by the Board. A majority of the members of the executive committee shall constitute a quorum for the
9369 transaction of business. Any actions or business conducted by the executive committee shall be acted upon
9370 by the full board as soon as practicable.

9371 C. Legislative members shall receive such compensation as provided in § 30-19.12 and
9372 nonlegislative citizen members shall receive compensation as provided in § 2.2-2813 for their services.
9373 All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance
9374 of their duties as provided by §§ 2.2-2813 and 2.2-2825. Such compensation and expenses shall be paid
9375 from the Fund.

9376 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth
9377 shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of
9378 membership on the Board or his service to the Foundation.

9379 E. Members of the Board and employees of the Foundation shall be subject to the standards of
9380 conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may
9381 be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the
9382 manner set forth therein.

9383 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

9384 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the
9385 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth
9386 without the payment of toll while in the performance of their official duties:

- 9387 1. The Commissioner of Highways;
- 9388 2. Members of the Commonwealth Transportation Board;
- 9389 3. Employees of the Department of Transportation;
- 9390 4. The Superintendent of the Department of State Police;
- 9391 5. Officers and employees of the Department of State Police;
- 9392 6. Members of the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control
9393 Authority;
- 9394 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage and
9395 Cannabis Control Authority and special agents of the Virginia Alcoholic Beverage and Cannabis Control
9396 Authority;
- 9397 8. The Commissioner of the Department of Motor Vehicles;

- 9398 9. Employees of the Department of Motor Vehicles;
- 9399 10. Local police officers;
- 9400 11. Sheriffs and their deputies;
- 9401 12. Regional jail officials;
- 9402 13. Animal wardens;
- 9403 14. The Director and officers of the Department of Wildlife Resources;
- 9404 15. Persons operating firefighting equipment and emergency medical services vehicles as defined
- 9405 in § 32.1-111.1;
- 9406 16. Operators of school buses being used to transport pupils to or from schools;
- 9407 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the
- 9408 driver, and used to regularly transport workers to and from their places of employment and (ii) public
- 9409 transit buses;
- 9410 18. Employees of the Department of Rail and Public Transportation;
- 9411 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation
- 9412 Act of 1988; and
- 9413 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- 9414 B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free
- 9415 use of such facilities, in cases of emergency and circumstances of concern for public safety on the
- 9416 highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or
- 9417 potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the
- 9418 toll facility by permitting the temporary suspension of toll collection operations on its facilities.
- 9419 1. The assessment of the threat to public safety shall be performed and the decision temporarily to
- 9420 suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
- 9421 2. Major incidents that may require the temporary suspension of toll collection operations shall
- 9422 include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of
- 9423 hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions;
- 9424 and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state

9425 of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations
9426 in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of
9427 Highways shall reinstate toll collection when the mandatory evacuation period ends.

9428 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly
9429 liable for any incident resulting in the suspension of toll collections as provided in this subsection, the
9430 court may assess against the person an amount equal to lost toll revenue as a part of the costs of the
9431 proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the
9432 Department of Transportation for deposit into the toll road fund.

9433 C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll
9434 bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor
9435 punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in
9436 subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel,
9437 or toll road is guilty of a Class 1 misdemeanor.

9438 D. Any vehicle operated by the holder of a valid driver's license or other document issued under
9439 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the
9440 operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and
9441 other toll facilities in the Commonwealth if:

- 9442 1. The vehicle is specially equipped to permit its operation by a handicapped person;
- 9443 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth
9444 or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being
9445 severely physically disabled and having permanent upper limb mobility or dexterity impairments that
9446 substantially impair his ability to deposit coins in toll baskets;
- 9447 3. The driver has applied for and received from the Department of Transportation a vehicle window
9448 sticker identifying him as eligible for such free passage; and
- 9449 4. Such identifying window sticker is properly displayed on the vehicle.

9450 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in
9451 the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by

9452 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by
9453 such persons.

9454 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the
9455 provisions of § 22.1-187.

9456 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use
9457 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or
9458 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation
9459 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct
9460 of official business:

- 9461 1. The Commissioner of Highways;
- 9462 2. Members of the Commonwealth Transportation Board;
- 9463 3. Employees of the Department of Transportation;
- 9464 4. The Superintendent of the Department of State Police;
- 9465 5. Officers and employees of the Department of State Police;
- 9466 6. The Commissioner of the Department of Motor Vehicles;
- 9467 7. Employees of the Department of Motor Vehicles; and
- 9468 8. Sheriffs and deputy sheriffs.

9469 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision
9470 B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection
9471 operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private
9472 Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in
9473 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent
9474 with the terms of the applicable comprehensive agreement between the operator and the Department. The
9475 Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this
9476 subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on
9477 other tolled facilities in the same affected area, whichever occurs first.

9478 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in
9479 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements
9480 of subdivisions D 1 through 4.

9481 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use
9482 of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of
9483 subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined
9484 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

9485 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

9486 A. ~~It shall be~~ is unlawful for any person to obtain a Virginia driver's license, special identification
9487 card, vehicle registration, certificate of title, or other document issued by the Department if such person
9488 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
9489 entitled thereto, including obtaining any document issued by the Department through the use of
9490 counterfeit, forged, or altered documents.

9491 B. ~~It shall be~~ is unlawful to aid any person to obtain any driver's license, special identification card,
9492 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

9493 C. ~~It shall be~~ is unlawful to knowingly possess or use for any purpose any driver's license, special
9494 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
9495 provisions of subsection A.

9496 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
9497 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
9498 of any document issued by the Department for the purpose of engaging in any age-limited activity,
9499 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.
9500 However, if a person is charged and convicted of any other violation of this section, such offense shall
9501 constitute a Class 6 felony.

9502 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
9503 identification card, vehicle registration, certificate of title, or other document issued by the Department

9504 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
9505 notice of the cancellation to the address of record maintained by the Department.

9506 **§ 46.2-341.20:7. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.**

9507 A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial
9508 motor vehicle as defined in § 46.2-341.4 unless the substance was obtained directly from or pursuant to a
9509 valid prescription or order of a practitioner while acting in the course of his professional practice, or except
9510 as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). The attorney for the
9511 Commonwealth or the county, city, or town attorney may prosecute such a case.

9512 Upon the prosecution of a person for a violation of this section, ownership or occupancy of the
9513 vehicle in which marijuana was found shall not create a presumption that such person either knowingly or
9514 intentionally possessed such marijuana.

9515 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation
9516 of this section is a civil offence. Any civil penalties collected pursuant to this section shall be deposited
9517 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Violations
9518 of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

9519 B. Any violation of this section shall be charged by summons. A summons for a violation of this
9520 section may be executed by a law-enforcement officer when such violation is observed by such officer.
9521 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the
9522 uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs
9523 shall be assessed for violations of this section. A person's criminal history record information as defined
9524 in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and
9525 records of such charges or judgments shall not be reported to the Central Criminal Records Exchange;
9526 however, such violation shall be reported to the Department of Motor Vehicles and shall be included on
9527 such individual's driving record.

9528 C. The procedure for appeal and trial of any violation of this section shall be the same as provided
9529 by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be

9530 as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be
9531 required to prove its case beyond a reasonable doubt.

9532 D. The provisions of this section shall not apply to members of state, federal, county, city, or town
9533 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
9534 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
9535 necessary for the performance of their duties.

9536 E. The provisions of this section involving marijuana in the form of cannabis oil as that term is
9537 defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to a valid written
9538 certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3
9539 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or disease, (ii) if such
9540 person is the parent or guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such
9541 minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such person has been designated
9542 as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if
9543 the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-
9544 369, such minor's or incapacitated adult's diagnosed condition or disease.

9545 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
9546 **card to obtain alcoholic beverages; penalties.**

9547 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
9548 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
9549 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
9550 United States Armed Forces identification card; United States passport or foreign government visa;
9551 Virginia Department of Motor Vehicles special identification card; official identification issued by any
9552 other federal, state or foreign government agency; or official student identification card of an institution
9553 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
9554 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
9555 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

9556 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

9557 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
9558 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
9559 Alcoholic Beverage and Cannabis Control Authority. The basis for such petition shall be the operator of
9560 the establishment has allowed it to become a meeting place for persons committing serious criminal
9561 violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed
9562 a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of
9563 the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence
9564 at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol or
9565 marijuana at the establishment, if it appears to the satisfaction of the court that the threat to public safety
9566 complained of exists and is likely to continue if such injunction is not granted. The court hearing on the
9567 petition shall be held within 10 days of service upon the respondent. The respondent shall be served with
9568 notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by
9569 the complainant at such hearing. Any injunction issued by the court shall be dissolved in the event the
9570 court later finds that the threat to public safety that is the basis of the injunction has been abated by reason
9571 of a change of ownership, management, or business operations at the establishment, or other change in
9572 circumstance.

9573 B. The Virginia Alcoholic Beverage and Cannabis Control Authority shall be given notice of any
9574 hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage and
9575 Cannabis Control Authority shall initiate an investigation into the activities at the establishment
9576 complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage and
9577 Cannabis Control Authority hearing and when a final determination has been issued by the Virginia
9578 Alcoholic Beverage and Cannabis Control Authority, regardless of disposition, any injunction issued
9579 hereunder shall be null, without further action by the complainant, respondent, or the court.

9580 **§ 51.1-212. Definitions.**

9581 As used in this chapter, unless the context requires a different meaning:

9582 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
9583 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title

9584 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the
9585 provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic
9586 Beverage and Cannabis Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.)
9587 of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as
9588 described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including
9589 correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii)
9590 ~~any~~ parole officer appointed pursuant to § 53.1-143, and (viii)~~any~~ commercial vehicle enforcement officer
9591 employed by the Department of State Police.

9592 "Member" means any person included in the membership of the Retirement System as provided
9593 in this chapter.

9594 "Normal retirement date" means a member's sixtieth birthday.

9595 "Retirement System" means the Virginia Law Officers' Retirement System.

9596 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

9597 This section shall apply to any person who is not a qualified voter because of a felony conviction,
9598 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
9599 meets the conditions and requirements set out in this section.

9600 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
9601 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ §
9602 4.1-645, 4.1-658, 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)
9603 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
9604 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
9605 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
9606 such petition, the court may approve the petition for restoration to the person of his right if the court is
9607 satisfied from the evidence presented that the petitioner has completed, five or more years previously,
9608 service of any sentence and any modification of sentence including probation, parole, and suspension of
9609 sentence; that the petitioner has demonstrated civic responsibility through community or comparable

9610 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
9611 the same period.

9612 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
9613 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
9614 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
9615 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
9616 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
9617 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
9618 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
9619 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
9620 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
9621 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
9622 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

9623 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
9624 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
9625 vote.

9626 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

9627 A. Any person shall be regarded as practicing the healing arts who actually engages in such
9628 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
9629 to the public in any manner a readiness to practice or who uses in connection with his name the words or
9630 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
9631 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
9632 to heal, cure or relieve those suffering from any injury, deformity or disease.

9633 Signing a birth or death certificate, or signing any statement certifying that the person so signing
9634 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
9635 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is

9636 practicing the healing arts within the meaning of this chapter except where persons other than physicians
9637 are required to sign birth certificates.

9638 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
9639 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
9640 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
9641 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
9642 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance
9643 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
9644 that such person is registered with the Board of Pharmacy to issue written certifications for the use of
9645 cannabis oil, as defined in § 54.1-3408.3.

9646 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

9647 A. As used in this section:

9648 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil
9649 from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a
9650 dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or
9651 tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol
9652 per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt,
9653 or processed in compliance with state or federal law, unless it has been acquired and formulated with
9654 cannabis plant extract by a pharmaceutical processor.

9655 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,
9656 a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the
9657 Board of Medicine and the Board of Nursing.

9658 "Registered agent" means an individual designated by a patient who has been issued a written
9659 certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated
9660 by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

9661 B. A practitioner in the course of his professional practice may issue a written certification for the
9662 use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease

9663 determined by the practitioner to benefit from such use. The practitioner shall use his professional
9664 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
9665 of telemedicine consistent with federal requirements for the prescribing of Schedule II through V
9666 controlled substances.

9667 C. The written certification shall be on a form provided by the Office of the Executive Secretary
9668 of the Supreme Court developed in consultation with the Board of Medicine. Such written certification
9669 shall contain the name, address, and telephone number of the practitioner, the name and address of the
9670 patient issued the written certification, the date on which the written certification was made, and the
9671 signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no
9672 later than one year after its issuance unless the practitioner provides in such written certification an earlier
9673 expiration.

9674 D. No practitioner shall be prosecuted under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1
9675 or § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabis oil for the treatment or to alleviate the
9676 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant
9677 to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a
9678 practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the
9679 applicable standard of care for evaluating or treating medical conditions.

9680 E. A practitioner who issues a written certification to a patient pursuant to this section shall register
9681 with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of
9682 patients to whom a practitioner may issue a written certification.

9683 F. A patient who has been issued a written certification shall register with the Board or, if such
9684 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian
9685 shall register and shall register such patient with the Board.

9686 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
9687 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
9688 of receiving cannabis oil pursuant to a valid written certification. Such designated individual shall register

9689 with the Board. The Board may set a limit on the number patients for whom any individual is authorized
9690 to act as a registered agent.

9691 H. The Board shall promulgate regulations to implement the registration process. Such regulations
9692 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,
9693 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an
9694 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for
9695 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a
9696 prohibition for the patient to be issued a written certification by more than one practitioner during any
9697 given time period.

9698 I. Information obtained under the registration process shall be confidential and shall not be subject
9699 to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
9700 reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee
9701 for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local
9702 law enforcement for the purpose of investigating or prosecuting a specific individual for a specific
9703 violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing patient care and
9704 drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical
9705 processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a
9706 registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined in
9707 § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such
9708 registered patient.

9709 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

9710 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without
9711 first obtaining a permit from the Board. The application for such permit shall be made on a form provided
9712 by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical
9713 processor or cannabis dispensing facility. The Board shall establish an application fee and other general
9714 requirements for such application.

9715 B. Each permit shall expire annually on a date determined by the Board in regulation. The number
9716 of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and
9717 up to five cannabis dispensing facilities for each health service area established by the Board of Health.
9718 Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and
9719 cannabis dispensing facility.

9720 C. The Board shall adopt regulations establishing health, safety, and security requirements for
9721 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements
9722 for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum
9723 equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii)
9724 processes for safely and securely dispensing and delivering in person cannabis oil to a registered patient,
9725 his registered agent, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
9726 patient's parent or legal guardian; (ix) dosage limitations, which shall provide that each dispensed dose of
9727 cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale
9728 distribution of and the transfer of cannabis oil products between pharmaceutical processors and between
9729 a pharmaceutical processor and a cannabis dispensing facility; (xi) an allowance for the sale of devices
9730 for administration of dispensed products; (xii) an allowance for the use and distribution of inert product
9731 samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor
9732 or cannabis dispensing facility, and not for further distribution or sale, without the need for a written
9733 certification; and (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil
9734 extract with Cannabis plant extract into allowable dosages of cannabis oil. The Board shall also adopt
9735 regulations for pharmaceutical processors that include requirements for (a) processes for safely and
9736 securely cultivating Cannabis plants intended for producing cannabis oil; (b) a maximum number of
9737 marijuana plants a pharmaceutical processor may possess at any one time; (c) the secure disposal of plant
9738 remains; and (d) a process for registering cannabis oil products.

9739 D. The Board shall require that, after processing and before dispensing cannabis oil, a
9740 pharmaceutical processor shall make a sample available from each homogenized batch of product for
9741 testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size

9742 for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method,
9743 and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for
9744 dispensing or distribution from each homogenized batch is required to achieve a representative sample for
9745 analysis.

9746 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances
9747 registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the
9748 Board in regulation.

9749 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal
9750 supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis
9751 dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain employee
9752 access to secured areas designated for cultivation and other areas approved by the Board. No pharmacist
9753 shall be required to be on the premises during such authorized access. The pharmacist-in-charge shall
9754 ensure security measures are adequate to protect the cannabis from diversion at all times.

9755 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing
9756 facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded
9757 along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of
9758 Investigation for the purpose of obtaining criminal history record information regarding the applicant. The
9759 cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central
9760 Criminal Records Exchange shall forward the results of the criminal history background check to the
9761 Board or its designee, which shall be a governmental entity.

9762 H. In addition to other employees authorized by the Board, a pharmaceutical processor may
9763 employ individuals who may have less than two years of experience (i) to perform cultivation-related
9764 duties under the supervision of an individual who has received a degree in horticulture or a certification
9765 recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform
9766 extraction-related duties under the supervision of an individual who has a degree in chemistry or
9767 pharmacology or at least two years of experience extracting chemicals from plants.

9768 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to
9769 five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and produced
9770 on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility
9771 shall be located within the same health service area as the pharmaceutical processor.

9772 J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or
9773 another jurisdiction or (ii) within the last five years, any offense in violation of Article 6 (§ 4.1-644 et
9774 seq.) of Chapter 6 of Title 4.1 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of
9775 Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be
9776 employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

9777 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-
9778 employment drug screening and regular, ongoing, random drug screening of employees.

9779 L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall
9780 determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who
9781 can be safely and competently supervised at one time; however, no pharmacist shall supervise more than
9782 six persons performing the duties of a pharmacy technician at one time.

9783 M. Any person who proposes to use an automated process or procedure during the production of
9784 cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not
9785 be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections
9786 B through E of § 54.1-3307.2.

9787 N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in Virginia,
9788 and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A
9789 pharmaceutical processor may process and formulate such oil extract with cannabis plant extract into an
9790 allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical processor is
9791 subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall
9792 be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp
9793 dealer or processor shall provide such third-party testing results to the pharmaceutical processor before
9794 oil from industrial hemp may be acquired.

9795 **§ 54.1-3442.8. Criminal liability; exceptions.**

9796 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
9797 prosecuted under Article 6 (§ 4.1-644 et seq.) of Chapter 6 of Title 4.1 or § 18.2-248, ~~18.2-248.1, or 18.2-~~
9798 ~~250, or 18.2-250.1~~ for possession or manufacture of marijuana or for possession, manufacture, or
9799 distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any
9800 disciplinary action by a professional licensing board if such agent or employee (i) possessed or
9801 manufactured such marijuana for the purposes of producing cannabis oil in accordance with the provisions
9802 of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabis oil in
9803 accordance with the provisions of this article and Board regulations.

9804 **§ 58.1-3. Secrecy of information; penalties.**

9805 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
9806 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
9807 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
9808 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall
9809 not divulge any information acquired by him in the performance of his duties with respect to the
9810 transactions, property, including personal property, income or business of any person, firm or corporation.
9811 Such prohibition specifically includes any copy of a federal return or federal return information required
9812 by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any
9813 reports, returns, financial documents or other information filed with the Attorney General pursuant to the
9814 provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions
9815 of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable,
9816 however, to:

- 9817 1. Matters required by law to be entered on any public assessment roll or book;
- 9818 2. Acts performed or words spoken, published, or shared with another agency or subdivision of
9819 the Commonwealth in the line of duty under state law;

9820 3. Inquiries and investigations to obtain information as to the process of real estate assessments by
9821 a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant
9822 to its study, provided that any such information obtained shall be privileged;

9823 4. The sales price, date of construction, physical dimensions or characteristics of real property, or
9824 any information required for building permits;

9825 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
9826 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or
9827 by the commissioner of accounts making a settlement of accounts filed in such estate;

9828 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11,
9829 when requested by the General Assembly or any duly constituted committee of the General Assembly;

9830 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
9831 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney
9832 General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant
9833 to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory
9834 established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any
9835 year in which the Attorney General receives Stamping Agent information that potentially alters the
9836 required escrow deposit of the manufacturer. The information shall only be provided in the following
9837 manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the
9838 manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow
9839 deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its
9840 products and the amount reported. The Attorney General shall provide the list within 15 days of receipt
9841 of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed
9842 with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C
9843 of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the
9844 manufacturer may make a written request to the Attorney General, including a copy of the prior written
9845 request to the Stamping Agent and any response received, for copies of any reports not received. The
9846 Attorney General shall provide copies of the reports within 45 days of receipt of the request.

9847 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics
9848 so classified as to prevent the identification of particular reports or returns and the items thereof or the
9849 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with
9850 any relevant information which in the opinion of the Department may assist in the collection of such
9851 delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon
9852 request by the General Assembly or any duly constituted committee of the General Assembly, shall
9853 disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless
9854 of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall
9855 not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is
9856 licensed to do business in that locality and divulging, upon written request, the name and address of any
9857 person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding
9858 any other provision of law, the commissioner of revenue is authorized to provide, upon written request
9859 stating the reason for such request, the Tax Commissioner with information obtained from local tax returns
9860 and other information pertaining to the income, sales and property of any person, firm or corporation
9861 licensed to do business in that locality.

9862 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
9863 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
9864 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
9865 any other provision of law, the Department is hereby authorized to make available the names and
9866 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

9867 3. This section shall not prohibit the Department from disclosing information to nongovernmental
9868 entities with which the Department has entered into a contract to provide services that assist it in the
9869 administration of refund processing or other services related to its administration of taxes.

9870 4. This section shall not prohibit the Department from disclosing information to taxpayers
9871 regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of
9872 such taxpayer submitted withholding records to the Department for a specific taxable year as required
9873 pursuant to subdivision C 1 of § 58.1-478.

9874 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance,
9875 or other similar local official who collects or administers taxes for a county, city, or town from disclosing
9876 information to nongovernmental entities with which the locality has entered into a contract to provide
9877 services that assist it in the administration of refund processing or other non-audit services related to its
9878 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
9879 local official who collects or administers taxes for a county, city, or town shall not disclose information
9880 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
9881 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such
9882 entity agrees to abide by such obligations.

9883 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
9884 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
9885 of finance, or other similar collector of county, city, or town taxes who, for the performance of his official
9886 duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
9887 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
9888 of income, filing status, number and type of dependents, whether a federal earned income tax credit as
9889 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as
9890 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of
9891 public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to
9892 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of
9893 outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal
9894 Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide
9895 to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia,
9896 upon written request, the names and home addresses of those persons identified by the designated
9897 guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address
9898 information upon request to state agencies and institutions for their confidential use in facilitating the
9899 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in
9900 facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide

9901 to the Commissioner of the Virginia Employment Commission, after entering into a written agreement,
9902 such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
9903 benefits; (vi) provide to the Virginia Alcoholic Beverage and Cannabis Control Authority, upon entering
9904 into a written agreement, such tax information as may be necessary to facilitate the collection of state and
9905 local taxes and the administration of the alcoholic beverage and cannabis control laws; (vii) provide to the
9906 Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket
9907 retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential
9908 use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed
9909 property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into
9910 a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees
9911 administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock
9912 Transportation Commission for his confidential use such tax information as may be necessary to facilitate
9913 the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of
9914 Agriculture and Consumer Services such tax information as may be necessary to identify those applicants
9915 for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe
9916 delinquent taxes; (xii) provide to the Department of Housing and Community Development for its
9917 confidential use such tax information as may be necessary to facilitate the administration of the remaining
9918 effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant
9919 Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors
9920 entering into a written agreement with the Tax Commissioner, for their confidential use when acting on
9921 behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not
9922 authorized to provide such information to a private collector who has used or disseminated in an
9923 unauthorized or prohibited manner any such information previously provided to such collector; (xiv)
9924 provide current name and address information as to the identity of the wholesale or retail dealer that
9925 affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale
9926 cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter
9927 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of

9928 Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to
9929 facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department
9930 of Human Resource Management, upon entering into a written agreement, such tax information as may
9931 be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to
9932 report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of
9933 finance, or any other officer of any county, city, or town performing any or all of the duties of a
9934 commissioner of the revenue and to any dealer registered for the collection of the Communications Sales
9935 and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for
9936 such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission
9937 for his confidential use such tax information as may be necessary to facilitate the collection of the motor
9938 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name
9939 and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject
9940 to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to
9941 the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1,
9942 upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi)
9943 provide to the Virginia Retirement System and the Department of Human Resource Management, after
9944 entering into a written agreement, such tax information as may be necessary to facilitate the enforcement
9945 of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services, upon
9946 entering into a written agreement, the name, address, social security number, number and type of personal
9947 exemptions, tax-filing status, and adjusted gross income of an individual, or spouse in the case of a married
9948 taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying
9949 persons who would like to newly enroll in medical assistance; and (xxiii) provide to the Commissioner of
9950 the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege
9951 card or permit under § 46.2-328.3 reported income and deductions from Virginia sources, as defined in §
9952 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth
9953 within the preceding 12 months. The Tax Commissioner is further authorized to enter into written
9954 agreements with duly constituted tax officials of other states and of the United States for the inspection of

9955 tax returns, the making of audits, and the exchange of information relating to any tax administered by the
9956 Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall
9957 be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

9958 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
9959 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
9960 stating the reason for such request, the chief executive officer of any county or city with information
9961 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
9962 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
9963 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
9964 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
9965 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
9966 profession or occupation administered by the Department of Professional and Occupational Regulation,
9967 only after the Department of Professional and Occupational Regulation exhausts all other means of
9968 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
9969 association, property owners' association or real estate cooperative association, or to the owner of property
9970 governed by any such association, the names and addresses of parties having a security interest in real
9971 property governed by any such association; however, such information shall be released only upon written
9972 request stating the reason for such request, which reason shall be limited to proposing or opposing changes
9973 to the governing documents of the association, and any information received by any person under this
9974 subsection shall be used only for the reason stated in the written request. The treasurer or other local
9975 assessing official may require any person requesting information pursuant to clause (iii) of this subsection
9976 to pay the reasonable cost of providing such information. Any person to whom tax information is divulged
9977 pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though
9978 he were a tax official.

9979 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
9980 treasurer or other collector of taxes for a county, city or town is authorized to provide information relating
9981 to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of

9982 performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction
9983 for use by such commissioner or other official in performing assessments.

9984 This section shall not be construed to prohibit a local tax official from imprinting or displaying on
9985 a motor vehicle local license decal the year, make, and model and any other legal identification
9986 information about the particular motor vehicle for which that local license decal is assigned.

9987 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
9988 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
9989 written request, the name, address, and social security number of a taxpayer, necessary for the performance
9990 of the Commissioner's official duties regarding the administration and enforcement of laws within the
9991 jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his
9992 agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations
9993 under this section.

9994 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
9995 confidential tax document which he knows or has reason to know is a confidential tax document. A
9996 confidential tax document is any correspondence, document, or tax return that is prohibited from being
9997 divulged by subsection A, B, C, or D and includes any document containing information on the
9998 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
9999 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
10000 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
10001 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

10002 **§ 58.1-623.2. Cigarette exemption certificate.**

10003 A. 1. Notwithstanding any other provision of law, all sales of cigarettes, as defined in § 58.1-1031,
10004 bearing Virginia revenue stamps in the Commonwealth shall be subject to the tax until the contrary is
10005 established. The burden of proving that a sale is not taxable is upon the dealer unless he takes from the
10006 taxpayer a cigarette exemption certificate issued by the Department to the taxpayer to the effect that the
10007 cigarettes are exempt under this chapter for the purposes of resale in the Commonwealth.

10008 2. The cigarette exemption certificate mentioned in this section shall relieve the person who takes
10009 such certificate from any liability for the payment or collection of the tax on the sale of cigarettes, except
10010 upon notice from the Tax Commissioner or the taxpayer that such certificate is no longer acceptable.

10011 3. If a taxpayer who gives a cigarette exemption certificate under this section makes any use of the
10012 property other than an exempt use or retention, demonstration, or display while holding the property for
10013 resale or distribution in the regular course of business, such use shall be deemed a taxable sale by the
10014 taxpayer as of the time the property or service is first used by him, and the cost of the property to him
10015 shall be deemed the sales price of such retail sale.

10016 B. 1. Prior to issuing a cigarette exemption certificate under this section, the Department shall
10017 conduct a background investigation on the taxpayer for the certificate. The Department shall not issue a
10018 cigarette exemption certificate until at least 30 days have passed from the receipt of the application, unless
10019 the taxpayer qualifies for the expedited process set forth in subdivision 3, or any other expedited process
10020 set forth in guidelines issued pursuant to subsection L. If the taxpayer does not qualify for the expedited
10021 process, the Department shall inspect each location listed in the application and verify that any location
10022 that resells cigarettes meets the requirements prescribed in subsection E.

10023 2. A taxpayer shall be required to pay an application fee, not to exceed \$50, to the Department for
10024 a cigarette exemption certificate.

10025 3. A taxpayer shall be eligible for an expedited process to receive a cigarette exemption certificate
10026 if the taxpayer possesses, at the time of filing an application for a cigarette exemption certificate, (i) an
10027 active license, in good standing, issued by the ~~Department of Virginia~~ Alcoholic Beverage and Cannabis
10028 Control Authority pursuant to Title 4.1, as verified by electronic or other means by the Department, or (ii)
10029 an active tobacco products tax distributor's license, in good standing, issued by the Department pursuant
10030 to § 58.1-1021.04:1. The Department may identify other categories of taxpayers who qualify for an
10031 expedited process through guidelines issued pursuant to subsection L. Taxpayers that qualify for an
10032 expedited process shall not be subject to the background check or the waiting period set forth in
10033 subdivision 1, nor shall such taxpayers be required to pay the application fee set forth in subdivision 2.

10034 4. If a taxpayer has been denied a cigarette exemption certificate, or has been issued a cigarette
10035 exemption certificate that has subsequently been suspended or revoked, the Department shall not consider
10036 an application from the taxpayer for a new cigarette exemption certificate for six months from the date of
10037 the denial, suspension, or revocation.

10038 C. The Department shall deny an application for a cigarette exemption certificate, or suspend or
10039 revoke a cigarette exemption certificate previously issued to a taxpayer, if the Department determines that:

10040 1. The taxpayer is a person who is not 18 years of age or older;

10041 2. The taxpayer is a person who is physically unable to carry on the business for which the
10042 application for a cigarette exemption certificate is filed, or has been adjudicated incapacitated;

10043 3. The taxpayer has not resided in the Commonwealth for at least one year immediately preceding
10044 the application, unless in the opinion of the Department, good cause exists for the taxpayer to have not
10045 resided in the Commonwealth for the immediately preceding year;

10046 4. The taxpayer has not established a physical place of business in the Commonwealth, as
10047 described in subsection E;

10048 5. A court or administrative body having jurisdiction has found that the physical place of business
10049 occupied by the taxpayer, as described in subsection E, does not conform to the sanitation, health,
10050 construction, or equipment requirements of the governing body of the county, city, or town in which such
10051 physical place is located, or to similar requirements established pursuant to the laws of the
10052 Commonwealth;

10053 6. The physical place of business occupied by the taxpayer, as described in subsection E, is not
10054 constructed, arranged, or illuminated so as to allow access to and reasonable observation of, any room or
10055 area in which cigarettes are to be sold;

10056 7. The taxpayer is not an authorized representative of the business;

10057 8. The taxpayer made a material misstatement or material omission in the application;

10058 9. The taxpayer has defrauded, or attempted to defraud, the Department, or any federal, state, or
10059 local government or governmental agency or authority, by making or filing any report, document, or tax
10060 return required by statute or regulation that is fraudulent or contains a false representation of material fact,

10061 or the taxpayer has willfully deceived or attempted to deceive the Department, or any federal, state, or
10062 local government or governmental agency or authority, by making or maintaining business records
10063 required by statute or regulation that are false or fraudulent;

10064 10. The Tax Commissioner has determined that the taxpayer has misused the certificate;

10065 11. The taxpayer has knowingly and willfully allowed any individual, other than an authorized
10066 representative, to use the certificate;

10067 12. The taxpayer has failed to comply with or has been convicted under any of the provisions of
10068 this chapter or Chapter 10 (§ 58.1-1000 et seq.) or any of the rules of the Department adopted or
10069 promulgated under the authority of this chapter or Chapter 10; however, no certificate shall be denied,
10070 suspended, or revoked on the basis of a failure to file a retail sales and use tax return or remit retail sales
10071 and use tax unless the taxpayer is more than 30 days delinquent in any filing or payment and has not
10072 entered into an installment agreement pursuant to § 58.1-1817; or

10073 13. The taxpayer has been convicted under the laws of any state or of the United States of (i) any
10074 robbery, extortion, burglary, larceny, embezzlement, gambling, perjury, bribery, treason, racketeering,
10075 money laundering, other crime involving fraud under Chapter 6 (§ 18.2-168 et seq.) of Title 18.2, or crime
10076 that has the same elements of the offenses set forth in § 58.1-1017 or 58.1-1017.1, or (ii) a felony.

10077 D. The provisions of § 58.1-623.1 shall apply to the suspension and revocation of exemption
10078 certificates issued pursuant to this section, mutatis mutandis.

10079 E. A cigarette exemption certificate shall only be issued to a taxpayer who:

10080 1. Has a physical place of business in the Commonwealth, owned or leased by him, where a
10081 substantial portion of the sales activity of the retail cigarette sales activity of the business is routinely
10082 conducted and that (i) satisfies all local zoning regulations; (ii) has sales and office space of at least 250
10083 square feet in a permanent, enclosed building not used as a house, apartment, storage unit, garage, or other
10084 building other than a building zoned for retail business; (iii) houses all records required to be maintained
10085 pursuant to § 58.1-1007; (iv) is equipped with office equipment, including but not limited to, a desk, a
10086 chair, a Point of Sale System, filing space, a working telephone listed in the name of the taxpayer or his
10087 business, working utilities, including electricity and provisions for space heating, and an Internet

10088 connection and email address; (v) displays a sign and business hours and is open to the public during the
10089 listed business hours; and (vi) does not occupy the same physical place of business of any other taxpayer
10090 who has been issued a cigarette exemption certificate;

10091 2. Possesses a copy of the (i) corporate charter and articles of incorporation in the case of a
10092 corporation, (ii) partnership agreement in the case of a partnership, or (iii) organizational registration from
10093 the Virginia State Corporation Commission in the case of an LLC; and

10094 3. Possesses a local business license, if such local business license is required by the locality where
10095 the taxpayer's physical place of business is located.

10096 F. A taxpayer with more than one physical place of business shall be required to complete only
10097 one application for a cigarette exemption certificate but shall list on the application every physical place
10098 of business in the Commonwealth where cigarettes are purchased, stored, or resold by the taxpayer or his
10099 affiliate. Upon approval of the application, the Department shall issue a cigarette exemption certificate to
10100 the taxpayer. The taxpayer shall be authorized to resell cigarettes only at the locations listed on the
10101 application. No cigarette exemption certificate shall be transferrable. For purposes of this subsection, a
10102 taxpayer shall be considered to have more than one physical place of business if the taxpayer owns or
10103 leases two or more physical locations in the Commonwealth where cigarettes are purchased, stored, or
10104 resold.

10105 G. A cigarette exemption certificate issued to a taxpayer shall bear the address of the physical
10106 place of business occupied or to be occupied by the taxpayer in conducting the business of purchasing
10107 cigarettes in the Commonwealth. In the event that a taxpayer intends to move the physical place of
10108 business listed on a certificate to a new location, he shall provide written notice to the Department at least
10109 30 days in advance of the move. A successful inspection of the new physical place of business shall be
10110 required by the Department prior to the issuance of a new cigarette exemption certificate bearing the
10111 updated address. If the taxpayer intends to change any of the required information relating to the physical
10112 places of business contained in the application for the cigarette exemption certificate submitted pursuant
10113 to subsection F, the taxpayer shall file an amendment to the application at least 30 days in advance of such
10114 change. The certificate with the original address shall become invalid upon the issuance of the new

10115 certificate, or 30 days after notice of the move is provided to the Department, whichever occurs sooner. A
10116 taxpayer shall not be required to pay a fee to the Department for the issuance of a new cigarette exemption
10117 certificate pursuant to this subsection.

10118 H. The privilege of a taxpayer issued a cigarette exemption certificate to purchase cigarettes shall
10119 extend to any authorized representative of such taxpayer. The taxpayer issued a cigarette exemption
10120 certificate may be held liable for any violation of this chapter, Chapter 10 (§ 58.1-1000 et seq.), Chapter
10121 10.1 (§ 58.1-1031 et seq.), or any related Department guidelines by such authorized representative.

10122 I. A taxpayer issued a cigarette exemption certificate shall comply with the recordkeeping
10123 requirements prescribed in § 58.1-1007 and shall make such records available for audit and inspection as
10124 provided therein. A taxpayer issued a cigarette exemption certificate who fails to comply with such
10125 requirements shall be subject to the penalties provided in § 58.1-1007.

10126 J. A cigarette exemption certificate granted by the Department shall be valid for five years from
10127 the date of issuance. At the end of the five-year period, the cigarette exemption certificate of a taxpayer
10128 who qualifies for the expedited application process set forth in subdivision B 3 shall be automatically
10129 renewed and no fee shall be required. If a taxpayer does not qualify for the expedited application process,
10130 then such taxpayer shall apply to the Department to renew the new cigarette exemption certificate as set
10131 forth in subdivision B 1 and shall pay an application fee not to exceed \$50 as set forth in subdivision B 2;
10132 however, the 30-day waiting period set forth in subdivision B 1 shall not apply.

10133 K. No taxpayer issued a cigarette exemption certificate shall display the certificate, or a copy
10134 thereof, in the physical place of business where a substantial portion of the retail cigarette sales activity of
10135 the business is routinely conducted.

10136 L. The Tax Commissioner shall develop guidelines implementing the provisions of this section,
10137 including but not limited to (i) defining categories of taxpayers who qualify for the expedited process, (ii)
10138 prescribing the form of the application for the cigarette exemption certificate, (iii) prescribing the form of
10139 the application for the expedited cigarette exemption certificate, (iv) establishing procedures for
10140 suspending and revoking the cigarette exemption certificate, and (v) establishing procedures for renewing

10141 the cigarette exemption certificate. Such guidelines shall be exempt from the provisions of the
10142 Administrative Process Act (§ 2.2-4000 et seq.).

10143 M. For the purposes of this section:

10144 "Authorized representative" means an individual who has an ownership interest in or is a current
10145 employee of the taxpayer who possesses a valid cigarette exemption certificate pursuant to this section.

10146 **§ 58.1-1007. Documents touching purchase, sale, etc., of cigarettes to be kept for three years,**
10147 **subject to inspection; penalty.**

10148 It shall be the duty of every person receiving, storing, selling, handling or transporting cigarettes
10149 in any manner whatsoever, to preserve all invoices, books, papers, cancelled checks, or other documents
10150 relating to the purchase, sale, exchange, receipt or transportation of all cigarettes for a period of three
10151 years. All such invoices, books, papers, cancelled checks or other memoranda and records shall be subject
10152 to audit and inspection at all times by any duly authorized representative of the Department, the Office of
10153 the Attorney General, or the ~~Department of~~ Virginia Alcoholic Beverage and Cannabis Control Authority
10154 or by a local cigarette tax administrative or enforcement official. Any person who fails or refuses to keep
10155 and preserve the records as required in this section ~~shall be~~ is guilty of a Class 2 misdemeanor. Any person
10156 who, upon request by a duly authorized agent who is entitled to audit and inspect such records, fails or
10157 refuses to allow an audit or inspection of records as provided in this section shall have his stamping permit
10158 suspended until such time as the audit or inspection is allowed. The Department may impose a penalty of
10159 \$1,000 for each day that the person fails or refuses to allow an audit or inspection of the records. The
10160 penalty shall be assessed and collected by the Department as other taxes are collected.

10161 **§ 58.1-1017.4. Documents to be provided at purchase.**

10162 A. Any person, except as provided in subsection C, who ships, sells, or distributes any quantity of
10163 cigarettes in excess of 10,000 sticks or 50 cartons, or with a value greater than \$10,000 in any single
10164 transaction or multiple related transactions, shall (i) obtain a copy of the cigarette exemption certificate
10165 issued to the purchaser pursuant to § 58.1-623.2 and (ii) maintain such information about the shipment,
10166 receipt, sale, and distribution of such cigarettes on a form prescribed by the Office of the Attorney General.
10167 Such form may be in electronic format in a manner prescribed by the Office of the Attorney General. Such

10168 form shall be transmitted to the Office of the Attorney General upon request, as determined by the Office
10169 of the Attorney General.

10170 B. For purposes of complying with subsection A, the seller may maintain an electronic copy of the
10171 purchaser's cigarette exemption certificate.

10172 C. The provisions of this section shall not apply to a stamping agent when delivering cigarettes to
10173 the purchaser's physical place of business.

10174 D. Prior to completing the sale, the purchaser shall complete the form for the seller and present a
10175 valid photo identification issued by a state or federal government agency. The purchaser shall sign the
10176 form acknowledging an understanding of the applicable sales limit and that providing false statements or
10177 misrepresentations may subject the purchaser to criminal penalties.

10178 E. Prior to completing the sale, the seller shall verify that the identity of the purchaser listed on the
10179 form matches the identity on the photo identification provided pursuant to subsection D and that the form
10180 is completed in its entirety.

10181 F. The records required to be completed by this section shall be preserved for three years at the
10182 location where the purchase was made and shall be available for audit and inspection as described in §
10183 58.1-1007. A violation of these requirements shall be punished under the provisions of § 58.1-1007.

10184 G. The Department, the ~~Department of Virginia~~ Alcoholic Beverage and Cannabis Control
10185 Authority, the Office of the Attorney General, a local cigarette tax administrative or enforcement official,
10186 or any other law-enforcement agency of the Commonwealth or any federal law-enforcement agency
10187 conducting a criminal investigation involving the trafficking of cigarettes may access these records
10188 required to be completed and preserved by this section at any time. Failure to supply the records upon
10189 request shall be punished under the provisions of § 58.1-1007. Copies of the records required to be
10190 completed and preserved by this section shall be provided to such officials or agencies upon request. Any
10191 court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the
10192 provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such information if relevant to any
10193 proceedings therein.

10194 H. The records required to be completed and preserved by this section shall be exempt from
10195 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

10196 **§ 58.1-3651. Property exempt from taxation by classification or designation by ordinance**
10197 **adopted by local governing body on or after January 1, 2003.**

10198 A. Pursuant to subsection 6 (a)(6) of Article X of the Constitution of Virginia, on and after January
10199 1, 2003, any county, city, or town may by designation or classification exempt from real or personal
10200 property taxes, or both, by ordinance adopted by the local governing body, the real or personal property,
10201 or both, owned by a nonprofit organization, including a single member limited liability company whose
10202 sole member is a nonprofit organization, that uses such property for religious, charitable, patriotic,
10203 historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the
10204 specific use on which the exemption is based, and continuance of the exemption shall be contingent on
10205 the continued use of the property in accordance with the purpose for which the organization is classified
10206 or designated. No exemption shall be provided to any organization that has any rule, regulation, policy,
10207 or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, sexual
10208 orientation, gender identity, or national origin.

10209 B. Any ordinance exempting property by designation pursuant to subsection A shall be adopted
10210 only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be
10211 heard. The local governing body shall publish notice of the hearing once in a newspaper of general
10212 circulation in the county, city, or town where the real property is located. The notice shall include the
10213 assessed value of the real and tangible personal property for which an exemption is requested as well as
10214 the property taxes assessed against such property. The public hearing shall not be held until at least five
10215 days after the notice is published in the newspaper. The local governing body shall collect the cost of
10216 publication from the organization requesting the property tax exemption. Before adopting any such
10217 ordinance the governing body shall consider the following questions:

10218 1. Whether the organization is exempt from taxation pursuant to § 501(c) of the Internal Revenue
10219 Code of 1954;

10220 2. Whether a current annual alcoholic beverage license for serving alcoholic beverages has been
10221 issued by the Board of Directors of the Virginia Alcoholic Beverage and Cannabis Control Authority to
10222 such organization, for use on such property;

10223 3. Whether any director, officer, or employee of the organization is paid compensation in excess
10224 of a reasonable allowance for salaries or other compensation for personal services which such director,
10225 officer, or employee actually renders;

10226 4. Whether any part of the net earnings of such organization inures to the benefit of any individual,
10227 and whether any significant portion of the service provided by such organization is generated by funds
10228 received from donations, contributions, or local, state or federal grants. As used in this subsection,
10229 donations shall include the providing of personal services or the contribution of in-kind or other material
10230 services;

10231 5. Whether the organization provides services for the common good of the public;

10232 6. Whether a substantial part of the activities of the organization involves carrying on propaganda,
10233 or otherwise attempting to influence legislation and whether the organization participates in, or intervenes
10234 in, any political campaign on behalf of any candidate for public office;

10235 7. The revenue impact to the locality and its taxpayers of exempting the property; and

10236 8. Any other criteria, facts and circumstances that the governing body deems pertinent to the
10237 adoption of such ordinance.

10238 C. Any ordinance exempting property by classification pursuant to subsection A shall be adopted
10239 only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be
10240 heard. The local governing body shall publish notice of the hearing once in a newspaper of general
10241 circulation in the county, city, or town. The public hearing shall not be held until at least five days after
10242 the notice is published in the newspaper.

10243 D. Exemptions of property from taxation under this article shall be strictly construed in accordance
10244 with Article X, Section 6 (f) of the Constitution of Virginia.

10245 E. Nothing in this section or in any ordinance adopted pursuant to this section shall affect the
10246 validity of either a classification exemption or a designation exemption granted by the General Assembly

10247 prior to January 1, 2003, pursuant to Article 2 (§ 58.1-3606 et seq.), 3 (§ 58.1-3609 et seq.) or 4 (§ 58.1-
10248 3650 et seq.) of this chapter. An exemption granted pursuant to Article 4 (§ 58.1-3650 et seq.) of this
10249 chapter may be revoked in accordance with the provisions of § 58.1-3605.

10250 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

10251 A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic
10252 Beverage and Cannabis Control Authority, the Virginia Lottery, the Marine Resources Commission, the
10253 Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff,
10254 any regional jail board or authority, and any local police department may allow any full-time sworn law-
10255 enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn
10256 fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution
10257 of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to
10258 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the
10259 Department of Corrections may allow any employee with internal investigations authority designated by
10260 the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10
10261 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who
10262 is receiving long-term disability payments for a service-incurred disability with no expectation of
10263 returning to the employment where he incurred the disability to purchase the service handgun issued or
10264 previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is
10265 no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also
10266 extend to any former Superintendent of the Department of State Police who leaves service after a minimum
10267 of five years. This privilege shall also extend to any person listed in this subsection who is eligible for
10268 retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from
10269 one of the agencies listed in this section to accept a position covered by the Virginia Retirement System.
10270 Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may,
10271 with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair
10272 market price determined as in subsection B, so long as the weapon is a type and configuration that can be

10273 purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than
10274 the instant background check.

10275 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
10276 who retires with five or more years of service, but less than 10, to purchase the service handgun issued to
10277 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
10278 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
10279 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
10280 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the
10281 date of the officer's retirement. Determinations of fair market value may be made by reference to a
10282 recognized pricing guide.

10283 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
10284 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10
10285 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

10286 D. The governing board of any institution of higher-learning education named in § 23.1-1100 may
10287 allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
10288 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price
10289 equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair
10290 market value may be made by reference to a recognized pricing guide.

10291 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with
10292 a state agency listed in subsection A, when the agency allows purchases of service handguns, and who
10293 retires after 10 years of state service, even if a portion of his service was with another state agency, may
10294 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

10295 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
10296 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
10297 him.

10298 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with
10299 more than 10 years of service to purchase the service handgun issued to him by the agency at a price that
10300 is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

10301 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
10302 currently employed by the agency to purchase his service handgun, with the approval of the chief law-
10303 enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency
10304 has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used
10305 by the agency or officer in the course of duty.

10306 **§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and**
10307 **firefighters.**

10308 A. As used in this section:

10309 "Firefighter" means any (i) salaried firefighter, including special forest wardens designated
10310 pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator
10311 and (ii) volunteer firefighter and volunteer emergency medical services personnel.

10312 "In the line of duty" means any action that a law-enforcement officer or firefighter was obligated
10313 or authorized to perform by rule, regulation, written condition of employment service, or law.

10314 "Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System;
10315 (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of
10316 Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City
10317 of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn
10318 member of the enforcement division of the Department of Wildlife Resources; (iii) Capitol Police officer;
10319 (ix) special agent of the Virginia Alcoholic Beverage and Cannabis Control Authority appointed under
10320 the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan
10321 Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in
10322 § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington
10323 Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport
10324 Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port

10325 Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
10326 Title 23.1 and employed by any public institution of higher education.

10327 "Mental health professional" means a board-certified psychiatrist or a psychologist licensed
10328 pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

10329 "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-
10330 traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's
10331 Diagnostic and Statistical Manual of Mental Disorders.

10332 "Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1,
10333 2020:

- 10334 1. Resulting in serious bodily injury or death to any person or persons;
- 10335 2. Involving a minor who has been injured, killed, abused, or exploited;
- 10336 3. Involving an immediate threat to life of the claimant or another individual;
- 10337 4. Involving mass casualties; or
- 10338 5. Responding to crime scenes for investigation.

10339 B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is
10340 compensable under this title if:

10341 1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses
10342 the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the
10343 individual's undergoing a qualifying event;

10344 2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's
10345 acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal
10346 Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R.
10347 1910.156;

10348 3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial
10349 factor in causing his post-traumatic stress disorder;

10350 4. Such qualifying event, and not another event or source of stress, was the primary cause of the
10351 post-traumatic stress disorder; and

10352 5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation,
10353 job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-
10354 enforcement officer or firefighter.

10355 Any such mental health professional shall comply with any workers' compensation guidelines for
10356 approved medical providers, including guidelines on release of past or contemporaneous medical records.

10357 C. Notwithstanding any provision of this title, workers' compensation benefits for any law-
10358 enforcement officer or firefighter payable pursuant to this section shall (i) include any combination of
10359 medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total
10360 incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii)
10361 be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary
10362 total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall
10363 be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for
10364 benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter
10365 pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and
10366 noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term
10367 disability plan, but not including payments for medical care, shall not exceed the average weekly wage
10368 paid to such law-enforcement officer or firefighter.

10369 D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall
10370 (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-
10371 enforcement officer or firefighter seeking mental health care services to a mental health professional.

10372 E. Each fire basic training program conducted or administered by the Department of Fire Programs
10373 or a municipal fire department in the Commonwealth shall provide, in consultation with the Department
10374 of Behavioral Health and Developmental Services, resilience and self-care technique training for any
10375 individual who begins basic training as a firefighter on or after July 1, 2021.

10376 **§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or**
10377 **heart disease, cancer.**

10378 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department
10379 of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such
10380 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
10381 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are
10382 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
10383 the contrary.

10384 B. Hypertension or heart disease causing the death of, or any health condition or impairment
10385 resulting in total or partial disability of any of the following persons who have completed five years of
10386 service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers'
10387 Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy
10388 sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or
10389 deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation
10390 police officers who are full-time sworn members of the enforcement division of the Department of
10391 Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage and
10392 Cannabis Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1,
10393 (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the
10394 provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained
10395 by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and
10396 maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and
10397 maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§
10398 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education
10399 shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title
10400 unless such presumption is overcome by a preponderance of competent evidence to the contrary.

10401 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer
10402 causing the death of, or any health condition or impairment resulting in total or partial disability of, any
10403 volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer,
10404 commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of

10405 State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles
10406 having completed five years of service shall be presumed to be an occupational disease, suffered in the
10407 line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of
10408 competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply
10409 for any individual who was diagnosed with such a condition before July 1, 2020.

10410 D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to
10411 invoke them have, if requested by the private employer, appointing authority or governing body
10412 employing them, undergone preemployment physical examinations that (i) were conducted prior to the
10413 making of any claims under this title that rely on such presumptions, (ii) were performed by physicians
10414 whose qualifications are as prescribed by the private employer, appointing authority or governing body
10415 employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the
10416 private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such
10417 persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

10418 E. Persons making claims under this title who rely on such presumptions shall, upon the request
10419 of private employers, appointing authorities or governing bodies employing such persons, submit to
10420 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their
10421 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
10422 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
10423 of such claimant, be present at such examination.

10424 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
10425 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
10426 employer, appointing authority or governing body that had employed the deceased, submit the body of
10427 the deceased to a postmortem examination as may be directed by the Commission. A qualified physician,
10428 selected and compensated by the person entitled to make the claim, may, at the election of such claimant,
10429 be present at such postmortem examination.

10430 G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary
10431 and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this
10432 section.

10433 H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant
10434 to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to
10435 perform firefighting services.

10436 **§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

10437 A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health
10438 condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter,
10439 or salaried or volunteer emergency medical services personnel, (ii) member of the State Police Officers'
10440 Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff,
10441 (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city
10442 sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer
10443 who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources,
10444 (ix) Capitol Police officer, (x) special agent of the Virginia Alcoholic Beverage and Cannabis Control
10445 Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period
10446 that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this
10447 chapter as provided in § 65.2-305, officer of the police force established and maintained by the
10448 Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained
10449 by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and
10450 Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of the police force established and
10451 maintained by the Virginia Port Authority, (xv) campus police officer appointed under Article 3 (§ 23.1-
10452 809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, (xvi)
10453 correctional officer as defined in § 53.1-1, or (xvii) full-time sworn member of the enforcement division
10454 of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids
10455 shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered
10456 by this title unless such presumption is overcome by a preponderance of competent evidence to the

10457 contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall
10458 be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the
10459 occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall
10460 be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the
10461 occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time
10462 sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall
10463 not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July
10464 1, 2020.

10465 B. As used in this section:

10466 "Blood or body fluids" means blood and body fluids containing visible blood and other body fluids
10467 to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as
10468 established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis,
10469 meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory,
10470 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which
10471 infectious airborne or blood-borne organisms can be transmitted between persons.

10472 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any
10473 other strain of hepatitis generally recognized by the medical community.

10474 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type
10475 I or type II, causing immunodeficiency syndrome.

10476 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis r HIV,
10477 means an exposure that occurs during the performance of job duties that places a covered employee at risk
10478 of infection.

10479 C. Persons covered under this section who test positive for exposure to the enumerated
10480 occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be
10481 entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual
10482 medical examination to measure the progress of the condition, if any, and any other medical treatment,
10483 prophylactic or otherwise.

10484 D. Whenever any standard, medically-recognized vaccine or other form of immunization or
10485 prophylaxis exists for the prevention of a communicable disease for which a presumption is established
10486 under this section, if medically indicated by the given circumstances pursuant to immunization policies
10487 established by the Advisory Committee on Immunization Practices of the United States Public Health
10488 Service, a person subject to the provisions of this section may be required by such person's employer to
10489 undergo the immunization or prophylaxis unless the person's physician determines in writing that the
10490 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written
10491 declaration, failure or refusal by a person subject to the provisions of this section to undergo such
10492 immunization or prophylaxis shall disqualify the person from any presumption established by this section.

10493 E. The presumptions described in subsection A shall only apply if persons entitled to invoke them
10494 have, if requested by the appointing authority or governing body employing them, undergone
10495 preemployment physical examinations that (i) were conducted prior to the making of any claims under
10496 this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as
10497 prescribed by the appointing authority or governing body employing such persons, (iii) included such
10498 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may
10499 have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or
10500 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective
10501 until six months following such examinations, unless such persons entitled to invoke such presumption
10502 can demonstrate a documented exposure during the six-month period.

10503 F. Persons making claims under this title who rely on such presumption shall, upon the request of
10504 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
10505 conducted by physicians selected by such appointing authorities or governing bodies or their
10506 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
10507 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election
10508 of such claimant, be present at such examination.

10509 **2. That §§ 18.2-248.1, 18.2-250.1, 18.2-251.1, and 19.2-389.3 of the Code of Virginia are repealed.**

10510 3. That, except as provided in the fourth, fifth, sixth, tenth, eleventh, twelfth, thirteenth, fourteenth,
10511 fifteenth, and sixteenth enactments of this act, the provisions of this act shall become effective on
10512 January 1, 2023.

10513 4. That the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 and §§ 4.1-601
10514 through 4.1-603, 19.2-392.2, and 19.2-392.2:1 of the Code of Virginia, as created by this act, shall
10515 become effective on July 1, 2021.

10516 5. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board)
10517 shall promulgate regulations to implement the provisions of this act by July 1, 2022. With the
10518 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
10519 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
10520 thereto shall apply to the adoption of any regulation pursuant to this act. Prior to adopting any
10521 regulation pursuant to this act, the Board shall publish a notice of opportunity to comment in the
10522 Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such
10523 notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the
10524 text of the proposed regulation; and (iii) the name, address, and telephone number of the agency
10525 contact person responsible for receiving public comments. Such notice shall be made at least 60 days
10526 in advance of the last date prescribed in such notice for submittals of public comment. The
10527 legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply
10528 to the promulgation or final adoption process for regulations pursuant to this act. The Board shall
10529 consider and keep on file all public comments received for any regulation adopted pursuant to this
10530 act.

10531 6. That the Virginia Alcoholic Beverage Control Authority (the Authority) may start accepting
10532 applications for licenses under this act on July 1, 2022, and shall, from July 1, 2022 until January 1,
10533 2023, give preference to qualified social equity applicants, as determined by regulations
10534 promulgated by the Board of Directors of the Authority in accordance with this act. The Authority
10535 may issue any license authorized by this act to any applicant who meets the requirements for
10536 licensure established by this act and by any regulations promulgated by the Board of Directors of

10537 the Authority in accordance with this act. Notwithstanding the third enactment of this act, any
10538 applicant issued a license by the Authority may operate in accordance with the provisions of this
10539 act prior to January 1, 2023; however, no retail marijuana store licensee may sell retail marijuana
10540 or retail marijuana products to a consumer prior to January 1, 2023. If a limit is placed on the
10541 number of licenses to be granted pursuant to this act, the Authority shall, from July 1, 2022, to July
10542 1, 2027, reserve a license slot for a qualified social equity applicant for every license that was initially
10543 granted to a social equity applicant and was subsequently surrendered.

10544 7. That the initial appointments by the Governor of the Cannabis Control Advisory Board, as
10545 created by this act, shall be staggered as follows: one member for a term of one year, two members
10546 for a term of two years, two members for a term of three years, and two members for a term of four
10547 years.

10548 8. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
10549 members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of
10550 Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a
10551 term to expire June 30, 2023; four persons shall be appointed for a term to expire June 30, 2024;
10552 and four persons shall be appointed for a term to expire June 30, 2025. Thereafter, nonlegislative
10553 citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years.

10554 9. That the initial terms of office of those persons appointed to serve as nonlegislative citizen
10555 members on the Cannabis Public Health Advisory Council pursuant to § 4.1-601.1 of the Code of
10556 Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a
10557 term to expire June 30, 2023; five persons shall be appointed for a term to expire June 30, 2024; and
10558 four persons shall be appointed for a term to expire June 30, 2025. Thereafter, nonlegislative citizen
10559 members of the Cannabis Public Health Advisory Council shall serve for terms of four years.

10560 10. That the Board of Agriculture and Consumer Services shall promulgate regulations to
10561 implement the provisions of this act by July 1, 2022.

10562 11. That the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public
10563 Safety and Homeland Security shall convene a work group with all appropriate state agencies and

10564 authorities to develop a plan for identifying and collecting data that can determine the use and
10565 misuse of marijuana in order to determine appropriate policies and programs to promote public
10566 health and safety. The plan shall include marijuana-related data regarding (i) poison control center
10567 calls; (ii) hospital and emergency room visits; (iii) impaired driving; (iv) use rates, including heavy
10568 or frequent use, mode of use, and demographic information for vulnerable populations, including
10569 youth and pregnant women; and (v) treatment rates for cannabis use disorder and any other
10570 diseases related to marijuana use. The plan shall detail the categories for which each data source
10571 will be collected, including the region where the individual lives or the incident occurred and the
10572 age and race or ethnicity of the individual. The plan shall also include the means by which initial
10573 data will be collected as soon as practicable as a benchmark prior to the effective date of an act
10574 legalizing marijuana for adult use, the plan for regular collection of such data thereafter, and the
10575 cost of the initial and ongoing collection of such data. The plan shall also recommend a timetable
10576 and the cost for analyzing and reporting the data. The work group, in consultation with the Office
10577 of the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to identify
10578 disproportionate impacts of marijuana legalization, if any, to include discrimination in the
10579 Commonwealth's cannabis industry. The work group shall report its findings and recommendations
10580 to the Governor and the General Assembly by November 1, 2021.

10581 12. That the Virginia Department of Education (the Department), with assistance from appropriate
10582 agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that
10583 teachers have access to sufficient information, resources, and lesson ideas to assist them in teaching
10584 about the harms of marijuana use among the youth and about substance abuse, as provided in the
10585 2020 Health Standards of Learning. The Department shall (i) review resources currently provided
10586 to teachers to determine if additional or updated material or lesson ideas are needed and (ii) provide
10587 or develop any additional materials and resources deemed necessary and make the same available
10588 to teachers by January 1, 2023.

10589 13. That the Secretary of Education, in conjunction with the Virginia Department of Education,
10590 shall develop a plan for introducing teachers, particularly those teaching health, to the information

10591 and resources available to them to assist them in teaching the 2020 Health Standards of Learning
10592 as it relates to marijuana use. Such plan shall include providing professional development webinars as
10593 soon as practicable, as well as ongoing periodic professional development relating to marijuana, as
10594 well as alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost
10595 of implementation and any potential source of funds to cover such cost and shall be submitted to
10596 the Governor and the General Assembly by November 1, 2021.

10597 14 That the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia
10598 Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health
10599 and Developmental Services shall work with existing collegiate recovery programs to determine
10600 what, if any, additional evidence-based efforts should be undertaken for college-aged individuals to
10601 promote education and prevention strategies relating to marijuana. The plan shall include the
10602 estimated cost of implementation and any potential source of funds to cover such cost and shall be
10603 submitted to the Governor and the General Assembly by November 1, 2021.

10604 15. That a referendum may be held in any county, city, or town between January 1, 2022, and
10605 January 1, 2023, on the following question: "Shall the operation of retail marijuana stores be
10606 allowed in _____ (name of county, city, or town)?" The result of an referendum held pursuant
10607 to this enactment shall become effective on January 1, 2023.

10608 16. That effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-
10609 60) promulgated by the Board of Pharmacy (the Board) shall remain in full force and effect and
10610 continue to be administered by the Board of Pharmacy until the Board of Directors of the Virginia
10611 Alcoholic Beverage and Cannabis Control Authority (the Authority) promulgates regulations
10612 pursuant to the fifth enactment of this act and no later than July 1, 2022. From July 1, 2021, to July
10613 1, 2022, the Board shall provide assistance to the Board of Directors of the Authority in identifying
10614 any regulatory modifications necessary to assist the Board of Directors of the Authority in
10615 promulgating regulations by July 1, 2022.

10616 17. That the provisions of this act may result in a net increase in periods of imprisonment or
10617 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary

10618 appropriation cannot be determined for periods of imprisonment in state adult correctional
10619 facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal
10620 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of
10621 the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined
10622 for periods of commitment to the custody of the Department of Juvenile Justice.

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