

HOUSE BILL NO. 698
 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Rehabilitation and Social Services
 on February 23, 2024)
 (Patron Prior to Substitute--Delegate Krizek)

A BILL to amend and reenact §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

Be it enacted by the General Assembly of Virginia:

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

§ 3.2-4113. Production of industrial hemp lawful.

46 A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or
 47 his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any
 48 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under
 49 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250
 50 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol
 51 concentration that does not exceed the total tetrahydrocannabinol concentration percentage established in
 52 federal regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his
 53 agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
 54 ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the
 55 possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and
 56 in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et
 57 seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-
 58 3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained
 59 in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or
 60 exemption shall be on the defendant.

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

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

67 **§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

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

77 **§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

97 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,
 98 grading, trimming, packaging, or other similar ~~processing~~ manufacturing of marijuana for use or sale.
 99 "Cultivation" or "cultivate" does not include ~~manufacturing~~ processing or testing.

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

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

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

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

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

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

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

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

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

115 "~~Manufacturing" or "manufacture" means the production of marijuana products or the blending,~~
 116 ~~infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana~~
 117 ~~extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not~~
 118 ~~include cultivation or testing.~~

119 "Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or
 120 resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
 121 its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature
 122 stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless
 123 such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial
 124 hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person registered pursuant to subsection A of § 3.2-
 125 4115 or his agent; (iii) industrial hemp, ~~as defined in § 3.2-4112~~, that is possessed by a person who holds
 126 a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv)
 127 a hemp product, ~~as defined in § 3.2-4112~~; (v) an industrial hemp extract, ~~as defined in § 3.2-5145.1~~; or
 128 (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer,
 129 ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the
 130 Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

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

134 "~~Marijuana cultivation facility~~" means a facility licensed under ~~this subtitle to cultivate, label, and~~
 135 ~~package retail marijuana; to purchase or take possession of marijuana plants and seeds from other~~
 136 ~~marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana~~
 137 ~~plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of~~
 138 ~~and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities;~~
 139 ~~to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell~~

140 ~~immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at~~
141 ~~home for personal use § 4.1-800.~~

142 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
143 ~~marijuana manufacturing processing facility, a marijuana wholesaler transporter, or a retail marijuana~~
144 ~~store.~~

145 ~~"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture,~~
146 ~~label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail~~
147 ~~marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer~~
148 ~~possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail~~
149 ~~marijuana stores, or other marijuana manufacturing facilities.~~

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

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

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

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

160 ~~"Marijuana wholesaler transporter" means a facility licensed under this subtitle to purchase or take~~
161 ~~possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds~~
162 ~~from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler~~
163 ~~and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana~~
164 ~~plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail~~
165 ~~marijuana store, or another marijuana wholesaler § 4.1-803.~~

166 ~~"Non retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed~~
167 ~~marijuana establishment.~~

168 ~~"Non retail marijuana products" means marijuana products that are not manufactured and sold by~~
169 ~~a licensed marijuana establishment.~~

170 "Micro business" means a licensee that meets the criteria set forth in subdivision B 13 of § 4.1-
171 606.

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

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

178 "Processing" or "process" means the production of marijuana products or the blending, infusing,
179 compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or
180 preparation by means of chemical synthesis. "Processing" or "process" does not include cultivation or
181 testing.

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

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

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

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

193 ~~"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession~~
194 ~~of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a~~
195 ~~marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail~~
196 ~~marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers § 4.1-~~
197 ~~802.~~

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

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

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

205 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other
206 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or
207 ~~manufacturing processing.~~

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

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

210 **§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.**

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

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

234 § 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum;
235 meetings; compensation and expenses; duties.

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

241 B. The Advisory Council shall have a total membership of 21 members that shall consist of 14
242 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the
243 Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic
244 diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be
245 appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia
246 Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the
247 American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of
248 Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be
249 appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a
250 community services board, one of whom shall be a person or health care provider with expertise in
251 substance use disorder treatment and recovery, one of whom shall be a person or health care provider with
252 expertise in substance use disorder prevention, one of whom shall be a person with experience in disability
253 rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom
254 shall be a person with a social or health equity background; and four to be appointed by the Governor,
255 subject to confirmation by the General Assembly, one of whom shall be a representative of a local health
256 district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an
257 academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical
258 cannabis patient.

259 The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner
260 of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer
261 Services, the Director of the Department of Health Professions, the Director of the Department of Forensic
262 Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees,
263 shall serve ex officio with voting privileges. Ex officio members of the Advisory Council shall serve terms
264 coincident with their terms of office.

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

269 ~~The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his~~
270 ~~designee.~~ The Advisory Council shall select a chairman and vice-chairman from among its membership.
271 A majority of the members shall constitute a quorum unless the Advisory Council adopts a policy by the
272 affirmative vote of a majority of the Advisory Council members that allows for a lesser number of
273 members to constitute a quorum, which shall be no less than nine members. The Advisory Council shall
274 meet at least two times each year and shall meet at the call of the chairman ~~or~~, whenever the majority of
275 the members so request, or upon the Board's submission of regulations to the Advisory Council for
276 approval.

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

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

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

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

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

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

295 4. To submit an annual report to the Governor and the General Assembly for publication as a report
296 document as provided in the procedures of the Division of Legislative Automated Systems for the
297 processing of legislative documents and reports. The chairman shall submit to the Governor and the
298 General Assembly an annual executive summary of the interim activity and work of the Advisory Council
299 no later than the first day of each regular session of the General Assembly. The executive summary shall
300 be submitted as a report document as provided in the procedures of the Division of Legislative Automated
301 Systems for the processing of legislative documents and reports and shall be posted on the General
302 Assembly's website.

303 **§ 4.1-604. Powers and duties of the Board.**

304 The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

322 9. Establish a ~~Cannabis Micro Business-Equity and Diversity~~ Cannabis Micro Business Support Team, which shall (i)
323 develop requirements for the creation and submission of ~~diversity, equity, and inclusion~~ micro cannabis
324 business accelerator plans by persons who wish to possess a license in more than one license category
325 ~~pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in~~
326 ~~social equity apprenticeship plan,~~ and an approval process and requirements for implementation of such
327 plans; (ii) be responsible for conducting an analysis of potential barriers to entry for ~~small, women-owned,~~
328 ~~and minority-owned businesses and veteran-owned~~ micro businesses interested in participating in the
329 marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii)

330 provide assistance with business planning for potential marijuana establishment licensees; (iv) spread
 331 awareness of business opportunities related to the marijuana marketplace in ~~areas disproportionately~~
 332 ~~impacted by marijuana prohibition and enforcement~~ historically economically disadvantaged
 333 communities; (v) provide technical assistance in navigating the administrative process to potential
 334 marijuana establishment licensees; and (vi) conduct other outreach initiatives in ~~areas disproportionately~~
 335 ~~impacted by marijuana prohibition and enforcement~~ historically economically disadvantaged
 336 communities as necessary;

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

341 11. Establish and implement a plan, in coordination with the Cannabis ~~Social Equity Micro~~
 342 ~~Business Liaison and the Director of Diversity, Equity, and Inclusion~~, to promote and encourage
 343 participation in the marijuana industry by people from historically economically disadvantaged
 344 ~~communities that have been disproportionately impacted by marijuana prohibition and enforcement~~ and
 345 to positively impact those communities;

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

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

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

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

354 16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial
 355 experts, investment bankers, superintendents, managers, and such other employees and special agents as
 356 may be necessary and fix their compensation to be payable from funds made available to the Authority.
 357 Legal ~~The Board may employ or retain legal counsel of its choice to advise or represent the Authority in~~
 358 hearings, controversies, or other matters involving the interests of the Authority; however, upon request
 359 by the Board, the Attorney General shall provide legal services for the Authority ~~shall be provided by the~~
 360 ~~Attorney General~~ in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

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

370 18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
 371 business shall be transacted and the manner in which the powers of the Authority shall be exercised and
 372 its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority
 373 to any officer or employee of the Authority. The Board shall remain responsible for the performance of
 374 any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be
 375 accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate,
 376 the guidelines shall require that the Board receive summaries of actions taken. Such delegation or

377 assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties
378 and tasks;

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

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

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

385 22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or
386 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
387 of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest
388 therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease
389 as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein,
390 at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and
391 on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property,
392 real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the
393 Authority on such terms and conditions as may be determined by the Board; and occupy and improve any
394 land or building required for the purposes of this subtitle;

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

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

401 25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
402 production of records, memoranda, papers, and other documents before the Board or any agent of the
403 Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member
404 or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony
405 thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved.
406 The Board may enter into consent agreements and may request and accept from any applicant, licensee,
407 or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or
408 permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and
409 provisions regarding whether the terms of the consent agreement are confidential and (b) may include an
410 admission or a finding of a violation. A consent agreement shall not be considered a case decision of the
411 Board and shall not be subject to judicial review under the provisions of the Administrative Process Act
412 (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

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

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

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

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

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

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

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

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

440 34. Issue an quarterly report that contains information regarding (i) license fees waived or reduced
441 pursuant to § 4.1-606; (ii) licenses issued to or renewed for persons identified in subdivision B 13 of §
442 4.1-606; (iii) public education initiatives, including public awareness campaigns regarding driving under
443 the influence, underage consumption and youth awareness, and health risks; (iv) community engagement
444 initiatives; (v) sales and tax revenue; (vi) programs funded by cannabis tax revenue; (vii) efforts made
445 pursuant to subdivisions 8, 9, 11, and 32; and (viii) license denials and disciplinary actions taken.

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

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

450 **§ 4.1-606. Regulations of the Board.**

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

457 B. The Board shall promulgate regulations that:

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

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

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

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

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

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

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

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

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

480 10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana
481 stores in the community and (ii) metrics that have similarly shown an association with negative
482 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall
483 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603. Such
484 regulations shall ensure that marijuana establishment licenses are, as possible and practicable, issued
485 evenly among all areas of the Commonwealth;

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

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

491 13. Establish criteria by which to ~~evaluate social equity~~ identify micro business license applicants,
492 which shall be an applicant ~~who has lived or been domiciled for at least 12 months in the Commonwealth~~
493 ~~and is either (i) an applicant with~~ that has at least 66 percent ownership and direct control by a person or
494 persons who (i) have been convicted of or adjudicated delinquent for any misdemeanor violation of §
495 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) ~~an applicant~~
496 ~~with at least 66 percent ownership by a person or persons who is~~ are the parent, child, sibling, or spouse
497 of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-
498 248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) ~~an applicant~~
499 ~~with at least 66 percent ownership by a person or persons who have~~ have resided for at least three of the
500 past five years in a ~~jurisdiction that is determined by the Board after utilizing census tract data made~~
501 ~~available by the United States Census Bureau to have been disproportionately policed for marijuana~~
502 ~~crimes;~~ (iv) ~~an applicant with at least 66 percent ownership by a person or persons who have~~ resided for
503 at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data
504 made available by the United States Census Bureau to be economically distressed; or (v) ~~an applicant with~~
505 ~~at least 66 percent ownership by a person or persons who graduated from a historically black~~ historically
506 economically disadvantaged community; (iv) have attended for at least five years a public elementary or
507 secondary school located in a historically economically disadvantaged community; (v) have received a
508 federal Pell Grant or attended for at least two years a college or university located in the Commonwealth
509 at which at least 30 percent of the students, on average, are eligible for a federal Pell Grant; or (vi) is a
510 veteran of the armed forces of the United States;

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

514 15. Establish For applicants that meet the criteria set forth in subdivision 13, establish standards
515 and requirements for (i) ~~any~~ a preference in the licensing process for qualified social equity applicants;
516 (ii) ~~what percentage of application or license fees are waived for a qualified social equity applicant, and~~
517 to promote participation by micro businesses with an inability to pay standard application and license fees;
518 (iii) ~~a low-interest business loan program for qualified social equity applicants;~~ (iv) a waiver of any

519 requirements to show proof of funds or current possession and control of the proposed licensed premises
 520 at the time of application; and (v) to the extent practicable, the proportional distribution of licenses among
 521 the applicants set forth in clauses (i) through (vi) in subdivision 13. The Board shall establish a process
 522 that prioritizes such applicants based on the number of subdivision 13 criteria categories met and ensures
 523 that increased priority is provided to applicants that meet the most criteria categories;

524 ~~16-15. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal~~
 525 ~~cultivation of marijuana that promote personal and public safety, including child protection, and~~
 526 ~~discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;~~

527 ~~17-16. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail~~
 528 ~~marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such~~
 529 ~~advertising displaces the illicit market and notifies the public of the location of marijuana establishments.~~
 530 ~~Such regulations shall be promulgated in accordance with § 4.1-1404;~~

531 ~~18-17. Establish restrictions on the number of licenses that a person may be granted to operate a~~
 532 ~~marijuana establishment in single locality or region; and~~

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

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

541 C. The Board may promulgate regulations that:

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

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

545 b. ~~Marijuana wholesalers, 25;~~

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

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

548 d. Tier II marijuana cultivation facilities, 50;

549 e. Tier III marijuana cultivation facilities, 10;

550 f. Tier IV marijuana cultivation facilities, 5;

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

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

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

559 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-
 560 1003 and 4.1-1004, including method of filing a return, information required on a return, and form of
 561 payment.

562 3. Limit the allowable square footage of a retail marijuana store, which shall not exceed ~~1,500~~
 563 2,500 square feet of retail floor space.

564 4. Allow certain persons to be granted or have interest in a license in more than one of the following
 565 license categories: ~~marijuana cultivation facility license, marijuana manufacturing facility license,~~
 566 ~~marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn narrowly~~

567 to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful
568 opportunity to participate in the market.

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

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

572 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any
573 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,
574 7, 10, or ~~14~~, and, except as otherwise provided in § 4.1-603, shall not promulgate any such regulation
575 that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

576 G. With regard to regulations governing licensees that have been issued a permit by the Board of
577 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to ~~Article 4.2~~
578 (~~§ 54.1-3442.5 et seq.~~) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.), the Board shall make
579 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board
580 of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and
581 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated
582 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been
583 found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more
584 extensive in scope than similar regulations promulgated pursuant to other provisions of this subtitle.

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

586 **§ 4.1-607. Board membership; terms; compensation.**

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

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

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

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

617 E. Members of the Board shall receive annually such salary, compensation, and reimbursement of
618 expenses for the performance of their official duties as set forth in the general appropriation act for
619 members of the House of Delegates when the General Assembly is not in session, except that the chairman
620 of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the
621 performance of his official duties as set forth in the general appropriation act for a member of the Senate
622 of Virginia when the General Assembly is not in session.

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

626 **§ 4.1-611. Seed-to-sale tracking system.**

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

631 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

640 B. The net profits derived under the provisions of this subtitle shall be transferred by the
641 Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each
642 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may
643 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of
644 \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on
645 the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the
646 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general
647 appropriation act as follows:

- 648 1. ~~Forty~~ Ten percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;
- 649 2. ~~Thirty Sixty~~ percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-
650 2499.8;
- 651 3. Twenty-five percent to the Department of Behavioral Health and Developmental Services,
652 which shall distribute such appropriated funds to community services boards for the purpose of
653 administering substance use disorder prevention and treatment programs; and
- 654 4. Five percent to public health programs, including public awareness campaigns that are designed
655 to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform
656 the public of other potential risks.

657 C. As used in this section, "net profits" means the total of all moneys collected by the Board, less
658 local marijuana tax revenues collected under subsection B of § 4.1-1004 and ~~distributed pursuant to § 4.1-~~
659 ~~614~~ 4.1-1003 and all costs, expenses, and charges authorized by this section.

660 D. All local tax revenues collected under subsection B of § 4.1-1004 4.1-1003 shall be paid into
661 the state treasury as provided in subsection A and credited to a special fund, which is hereby created on

662 the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be
663 credited to the account of the locality in which they were collected. If revenues were collected from a
664 marijuana establishment located in more than one locality by reason of the boundary line or lines passing
665 through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The
666 Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to
667 determine the locality to which tax revenues are attributable.

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

674 **§ 4.1-621. Certain information not to be made public.**

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

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

691 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

699 The question on the ballot shall be:

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

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

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

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

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

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

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

730 **§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

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

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

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

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

744 **§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

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

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

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

755 **CHAPTER 7.**

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

757 **§ 4.1-700. Exemptions from licensure.**

758 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or
759 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the
760 provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that
761 is registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§
762 3.2-4112 et seq.) of Title 3.2 and is acting in accordance with the provisions of Title 3.2; (iii) a person that
763 has been issued a regulated hemp product retail facility registration and is acting in accordance with the
764 provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article
765 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for
766 personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person
767 described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person
768 satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an
769 industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title
770 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed
771 premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an
772 industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

773 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

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

778 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting;**
779 **expiration; civil penalties.**

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

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

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

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

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

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

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

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

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

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

810 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

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

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

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

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

834 For the purposes of a Board inspection of the records of any retail marijuana store licensees,
 835 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not
 836 open to the public substantially during the same hours, "reasonable hours" means the business hours when
 837 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records
 838 are not available for inspection, the licensee shall provide the records to a special agent of the Board within
 839 24 hours after a request is made to inspect the records.

840 CHAPTER 8.

841 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

842 **§ 4.1-800. Marijuana cultivation facility license.**

843 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall
 844 authorize the licensee to cultivate, label, and package marijuana; to purchase or take possession of
 845 marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell
 846 marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer
 847 possession of marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to
 848 transfer possession of and sell marijuana, marijuana plants, and marijuana seeds to other marijuana
 849 cultivation facilities; and to transfer possession of and sell marijuana to marijuana processing facilities:

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

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

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

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

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

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

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

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

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

878 **§ 4.1-801. Marijuana processing facility license.**

879 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee
880 to process, label, and package marijuana and marijuana products; to purchase or take possession of
881 marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer
882 possession of and sell marijuana and marijuana products to retail marijuana stores or other marijuana
883 processing facilities; and to transfer possession of marijuana and marijuana products to marijuana
884 transporters.

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

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

895 **§ 4.1-802. Retail marijuana store license.**

896 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to
897 purchase or take possession of marijuana, marijuana products, immature marijuana plants, or marijuana
898 seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of
899 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana

900 transporter; and to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to
901 consumers on premises approved by the Board.

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

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

904 2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature
905 marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall
906 not be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds
907 using:

908 a. An automated dispensing or vending machine;

909 b. A drive-through sales window;

910 c. An Internet-based sales platform; or

911 d. A delivery service.

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

915 4. A retail marijuana store shall not:

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

917 or

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

922 5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track
923 all marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which
924 the marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or
925 transferred to the retail marijuana store to the point at which the marijuana, marijuana products, immature
926 marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing
927 facility, or disposed of or destroyed.

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

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

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

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

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

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

949 **§ 4.1-803. Marijuana transporter license.**

950 A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take
951 possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a
952 marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another
953 marijuana transporter; to transfer possession of marijuana, marijuana products, immature marijuana
954 plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail
955 marijuana store, or another marijuana transporter; and to transport marijuana, marijuana products,
956 immature marijuana plants, and marijuana seeds from one licensed establishment to another.

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

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

966 **§ 4.1-804. Marijuana testing facility license.**

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

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

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

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

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

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

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

988 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

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

992 B. A person may possess or hold interest in one or any combination of the following licenses
993 pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation

994 facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license,
995 tier V marijuana cultivation facility license, marijuana processing facility license, marijuana transporter
996 license, or retail marijuana store license. Board regulations shall be drawn to ensure that all licensees have
997 an equal and meaningful opportunity to participate in the market. Moreover, (i) no person shall be granted
998 or hold interest in more than five total licenses, not including marijuana transporter licenses, issued
999 pursuant to this subtitle or more than one tier V marijuana cultivation facility license and (ii) no person
1000 that has been granted or holds interest in a marijuana cultivation facility license, marijuana processing
1001 facility license, marijuana transporter license, or retail marijuana store license shall be issued or hold
1002 interest in a marijuana testing facility license.

1003 **§ 4.1-806. Temporary permits required in certain instances.**

1004 A. The Board may grant a permit that shall authorize any person who purchases at a foreclosure,
1005 secured creditor's, or judicial auction sale the premises or property of a person licensed by the Board and
1006 who has become lawfully entitled to the possession of the licensed premises to continue to operate the
1007 marijuana establishment to the same extent as the license holder for a period not to exceed 60 days or for
1008 such longer period as determined by the Board. Such permit shall be temporary and shall confer the
1009 privileges of any licenses held by the previous owner to the extent determined by the Board. Such
1010 temporary permit may be issued in advance, conditioned on the requirements in this subsection.

1011 B. A temporary permit granted pursuant to subsection A may be revoked summarily by the Board
1012 for any cause set forth in § 4.1-900 without complying with subsection A of § 4.1-903. Revocation of a
1013 temporary permit shall be effective upon service of the order of revocation upon the permittee or upon the
1014 expiration of three business days after the order of the revocation has been mailed to the permittee at either
1015 his residence or the address given for the business in the permit application. No further notice shall be
1016 required.

1017 **§ 4.1-807. Licensee shall maintain possession of premises.**

1018 As a condition of licensure, a licensee shall at all times maintain possession of the licensed
1019 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a
1020 lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of
1021 the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
1022 revoked by the Board.

1023 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

1024 A. The Board may refuse to grant any license if it has reasonable cause to believe that the granting
1025 of the license would be detrimental to the interest, morals, safety, or welfare of the public or would be
1026 inconsistent with the provisions of this subtitle.

1027 B. The Board shall refuse to grant any license if it has reasonable cause to believe that:

1028 1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant
1029 is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if
1030 the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
1031 stock, or if the applicant is a limited liability company, any member-manager or any member owning 10
1032 percent or more of the membership interest of the limited liability company:

1033 a. Is not 21 years of age or older;

1034 b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude
1035 under the laws of any state or of the United States within seven years of the date of the application or has
1036 not completed all terms of sentencing and probation resulting from any such conviction;

1037 c. Knowingly employs or allows to volunteer someone younger than 21 years of age;

1038 d. Is not the legitimate owner of the business proposed to be licensed, or other persons have
1039 ownership interests in the business that have not been disclosed;

1040 e. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
1041 proposed to be licensed;

- 1042 f. Has misrepresented a material fact in applying to the Board for a license;
1043 g. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
1044 governmental agency or authority, by making or filing any report, document, or tax return required by
1045 statute or regulation that is fraudulent or contains a false representation of a material fact; or has willfully
1046 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental
1047 agency or authority, by making or maintaining business records required by statute or regulation that are
1048 false or fraudulent;
1049 h. Is violating or allowing the violation of any provision of this subtitle in his establishment at the
1050 time his application for a license is pending;
1051 i. Is a full-time or part-time employee of the Department of State Police or of a police department
1052 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
1053 thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the
1054 Commonwealth;
1055 j. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1056 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.); or
1057 k. Is physically unable to carry on the business for which the application for a license is filed or
1058 has been adjudicated incapacitated.
1059 2. The applicant is a member or employee of the Board or is a corporation or other business entity
1060 in which a member or employee of the Board is a stockholder or has any other economic interest.
1061 Whenever any other elected or appointed official of the Commonwealth or any political subdivision
1062 thereof applies for such a license or continuance thereof, he shall state on the application the official
1063 position he holds, and whenever a corporation or other business entity in which any such official is a
1064 stockholder or has any other economic interest applies for such a license, it shall state on the application
1065 the full economic interests of each such official in such corporation or other business entity.
1066 3. The place to be occupied by the applicant:
1067 a. Does not conform to the requirements of the governing body of the county, city, or town in
1068 which such place is located with respect to sanitation, health, construction, or equipment, or to any similar
1069 requirements established by the laws of the Commonwealth or by Board regulation;
1070 b. Is so located that granting a license and operation thereunder by the applicant would result in
1071 violations of this subtitle or Board regulations or violation of the laws of the Commonwealth or local
1072 ordinances relating to peace and good order;
1073 c. When the applicant is applying for a retail marijuana store license, is so located with respect to
1074 any place of religious worship; hospital; public, private, or parochial school or institution of higher
1075 education; public or private playground or other similar recreational facility; child day program; substance
1076 use disorder treatment facility; or federal, state, or local government-operated facility that the operation
1077 of such place under such license will adversely affect or interfere with the normal, orderly conduct of the
1078 affairs of such facilities, programs, or institutions;
1079 d. When the applicant is applying for a retail marijuana store license, is so located with respect to
1080 any residence or residential area that the operation of such place under such license will adversely affect
1081 real property values or substantially interfere with the usual quietude and tranquility of such residence or
1082 residential area;
1083 e. When the applicant is applying for a retail marijuana store license, is located within 1,000 feet
1084 of an existing retail marijuana store;
1085 f. When the applicant is applying for a retail marijuana store license, is so constructed, arranged,
1086 or illuminated that law-enforcement officers and special agents of the Board are prevented from ready
1087 access to and reasonable observation of any room or area within which marijuana or marijuana products
1088 are to be sold; or

1089 g. Is an establishment where alcoholic beverages, tobacco, or tobacco products are manufactured,
1090 sold, or used.

1091 Nothing in this subdivision 3 shall be construed to require an applicant to have secured a place or
1092 premises until the final stage of the license approval process.

1093 4. The number of licenses existing in the locality is such that the granting of a license is detrimental
1094 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall
1095 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail
1096 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and
1097 number of all licenses existent in the particular county, city, or town and the immediate neighborhood
1098 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in
1099 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by
1100 a local governing body or local residents.

1101 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
1102 political subdivision thereof that warrants refusal by the Board to grant any license.

1103 6. The Board is not authorized under this subtitle to grant such license.

1104 **§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act;**
1105 **exceptions.**

1106 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial
1107 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
1108 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by
1109 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals
1110 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court
1111 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.
1112 Neither mandamus nor injunction shall lie in any such case.

1113 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store
1114 license, provided that such:

1115 1. License for the applicant has been refused or revoked within a period of 12 months;

1116 2. License for any premises has been refused or revoked at that location within a period of 12
1117 months; or

1118 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted
1119 by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there
1120 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee
1121 alleging a violation of this subtitle.

1122 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time
1123 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
1124 the Board may refuse a hearing on an application for a new license until after the date on which the
1125 suspension period would have been executed had the license not been permitted to expire.

1126 **CHAPTER 9.**

1127 **ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.**

1128 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

1129 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1130 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is
1131 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
1132 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
1133 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
1134 percent or more of the membership interest of the limited liability company:

1135 a. Has misrepresented a material fact in applying to the Board for such license;

1136 b. Within the five years immediately preceding the date of the hearing held in accordance with §
1137 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),
1138 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or
1139 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to
1140 comply with any of the conditions or restrictions of the license granted by the Board;
1141 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
1142 under the laws of any state or of the United States;
1143 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
1144 other persons have ownership interests in the business that have not been disclosed;
1145 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
1146 conducted under the license granted by the Board;
1147 f. Has been intoxicated or under the influence of some self-administered drug while upon the
1148 licensed premises;
1149 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
1150 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or
1151 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
1152 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon
1153 such licensed premises;
1154 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana
1155 product except as provided under this subtitle;
1156 j. Is physically unable to carry on the business conducted under such license or has been
1157 adjudicated incapacitated;
1158 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;
1159 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has
1160 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or
1161 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled
1162 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)
1163 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation
1164 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of
1165 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to
1166 any conduct related to the operation of the licensed business that facilitates the commission of any of the
1167 offenses set forth herein;
1168 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
1169 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1170 of public property immediately adjacent to the licensed premises from becoming a place where patrons of
1171 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§
1172 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
1173 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.)
1174 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
1175 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
1176 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing
1177 threat to the public safety;
1178 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
1179 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
1180 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1181 of public property immediately adjacent to the licensed premises; or
1182 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the
1183 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1184 2. The place occupied by the licensee:
1185 a. Does not conform to the requirements of the governing body of the county, city, or town in
1186 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to
1187 any similar requirements established by the laws of the Commonwealth or by Board regulations;
1188 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or
1189 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,
1190 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs
1191 are regularly used or distributed. The Board may consider the general reputation in the community of such
1192 establishment in addition to any other competent evidence in making such determination.
1193 3. The licensee or any employee of the licensee discriminated against any member of the Armed
1194 Forces of the United States by prices charged or otherwise.
1195 4. Any cause exists for which the Board would have been entitled to refuse to grant such license
1196 had the facts been known.
1197 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
1198 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,
1199 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)
1200 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction
1201 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment
1202 plan approved by the same locality to settle the outstanding liability.
1203 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions
1204 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the
1205 licensed premises in the Commonwealth.
1206 7. Any other cause authorized by this subtitle.
1207 B. The Board shall promulgate regulations regarding suspension and revocation standards and
1208 protocols.
1209 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**
1210 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the
1211 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or
1212 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily
1213 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises
1214 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion
1215 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a
1216 continuing threat to public safety and that summary suspension of the license or permit is justified to
1217 protect the health, safety, or welfare of the public.
1218 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall
1219 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of
1220 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the
1221 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.
1222 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,
1223 the licensee may petition the Board for a restricted license pending the results of the formal investigation
1224 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the
1225 Board shall have discretion to impose appropriate restrictions based on the facts presented.
1226 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence
1227 a formal investigation. The formal investigation shall be completed within 10 days of its commencement
1228 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,
1229 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held
1230 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days
1231 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the

1232 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee
1233 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The
1234 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

1235 D. Service of any order of suspension issued pursuant to this section shall be made by a special
1236 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect
1237 immediately upon service.

1238 E. This section shall not apply to temporary permits granted under § 4.1-806.

1239 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1240 The Board shall suspend or revoke any license if it finds that:

1241 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession
1242 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

1243 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local
1244 government or governmental agency or authority, by making or filing any report, document, or tax return
1245 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of
1246 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local
1247 government or governmental agency or authority, by making or maintaining business records required by
1248 statute or regulation that are false or fraudulent.

1249 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**
1250 **penalties.**

1251 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
1252 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
1253 Administrative Process Act (§ 2.2-4000 et seq.).

1254 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the
1255 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made
1256 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous
1257 or present employee of the licensee to any law-enforcement officer, the existence of which is known by
1258 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
1259 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
1260 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
1261 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against
1262 the licensee. In addition, any subpoena for the production of documents issued to any person at the request
1263 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought
1264 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1265 If the Board fails to provide for inspection or copying under this section for the licensee after a
1266 written request, the Board shall be prohibited from introducing into evidence any items the licensee would
1267 have lawfully been entitled to inspect or copy under this section.

1268 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall
1269 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such
1270 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance
1271 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the
1272 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be
1273 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither
1274 mandamus nor injunction shall lie in any such case.

1275 B. In suspending any license, the Board may impose, as a condition precedent to the removal of
1276 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board
1277 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
1278 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty
1279 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the

1280 violation or \$5,000 for the second or subsequent violation occurring within five years immediately
1281 preceding the date of the second or subsequent violation. However, if the violation involved selling
1282 marijuana or marijuana products to a person prohibited from purchasing marijuana or marijuana products
1283 or allowing consumption of marijuana or marijuana products, the Board may impose a civil penalty not to
1284 exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the
1285 violation and \$6,000 for a second or subsequent violation occurring within five years immediately
1286 preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof,
1287 or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board
1288 not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation
1289 in addition to any suspension or civil penalty incurred.

1290 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
1291 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a
1292 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the
1293 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing
1294 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed
1295 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges
1296 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of
1297 the suspension as applicable, or (4) proceed to a hearing.

1298 D. The Board shall, by regulation or written order:

1299 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
1300 initial hearing;

1301 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu
1302 of suspension may be accepted for a first offense occurring within three years immediately preceding the
1303 date of the violation;

1304 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any
1305 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to
1306 its employees marijuana seller training certified in advance by the Board;

1307 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
1308 license and the civil charge acceptable in lieu of such suspension; and

1309 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
1310 licensee has had no prior violations within five years immediately preceding the date of the violation. No
1311 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
1312 subtitle or Board regulations.

1313 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on**
1314 **hand; termination.**

1315 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee
1316 at the time the license of such person is suspended or revoked may be disposed of as follows:

1317 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products
1318 upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board;
1319 or

1320 2. Destroyed by the Board or its designee.

1321 B. All marijuana or marijuana products owned by or in the possession of any person whose license
1322 is suspended or revoked shall be disposed of by such person in accordance with the provisions of this
1323 section within 60 days from the date of such suspension or revocation.

1324 C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose
1325 licenses have been terminated other than by suspension or revocation may be disposed of in accordance
1326 with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

1327 D. All marijuana or marijuana products owned by or remaining in the possession of any person
1328 described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited
1329 to the Commonwealth in accordance with the provisions of § 4.1-1303.

1330 CHAPTER 10.

1331 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

1332 § 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.

1333 A. Every person intending to apply for any license authorized by this subtitle shall file with the
1334 Board an application on forms provided by the Board and a statement in writing by the applicant swearing
1335 and affirming that all of the information contained therein is true.

1336 B. Such applications, including applications for renewal, shall include any information necessary
1337 for the Board to determine whether the applicant meets or continues to meet the criteria set forth in
1338 subdivision B 13 of § 4.1-606.

1339 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by
1340 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a
1341 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending
1342 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a
1343 pending application or inspection, such license shall authorize the licensee to purchase marijuana,
1344 marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of
1345 this subtitle; however, the licensee shall not sell marijuana, marijuana products, immature marijuana
1346 plants, or marijuana seeds until an inspection is completed.

1347 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his
1348 application with the Board on the front door of the building, place, or room where he proposes to engage
1349 in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and
1350 contain such information as required by the Board, including a statement that any objections shall be
1351 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to
1352 this subsection.

1353 The applicant shall also cause notice to be published at least once a week for two consecutive
1354 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein
1355 such applicant proposes to engage in such business. Such notice shall contain such information as required
1356 by the Board, including a statement that any objections to the issuance of the license be submitted to the
1357 Board not later than 30 days from the date of the initial newspaper publication.

1358 E. The Board shall conduct a background investigation on each license applicant, which shall
1359 include a criminal history records search and may include a fingerprint-based national criminal history
1360 records search and a requirement for the provision of personal descriptive information to be forwarded
1361 through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of
1362 obtaining criminal history record information regarding such applicant. The Central Criminal Records
1363 Exchange shall forward the results of the criminal history background check to the Board or its designee,
1364 which shall be a governmental entity.

1365 However, the Board may waive, for good cause shown, the requirement for a criminal history
1366 records search and completed personal data form for officers, directors, nonmanaging members, or limited
1367 partners of any applicant corporation, limited liability company, or limited partnership. In considering
1368 criminal history record information, the Board shall not disqualify an applicant because of a past
1369 conviction for a marijuana-related offense.

1370 F. The Board shall notify the local governing body of each license application through the town
1371 manager, city manager, county administrator, or other designee of the locality. Local governing bodies
1372 shall submit objections to the granting of a license within 30 days of the filing of the application.

1373 G. Each applicant shall pay the required application fee at the time the application is filed. The
1374 license application fee shall be determined by the Board and shall be in addition to the actual cost charged

1375 to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records
1376 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central
1377 Criminal Records Exchange for each criminal history records search required by the Board. Application
1378 fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

1379 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,
1380 all licensees shall file and maintain with the Board a current, accurate record of the information required
1381 by the Board pursuant to subsection A and notify the Board of any changes to such information in
1382 accordance with Board regulations.

1383 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the
1384 Board. Such permits shall confer upon their holders no authority to make solicitations in the
1385 Commonwealth as otherwise provided by law.

1386 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section
1387 for applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied
1388 by the number of months for which the permit is granted.

1389 J. The Board shall have the authority to increase state license fees. The Board shall set the amount
1390 of such increases on the basis of the consumer price index and shall not increase fees more than once every
1391 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all
1392 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that
1393 would be required for any license affected by the Board's proposed fee increases. Such notice shall be
1394 provided on or before November 1 in any year in which the Board has decided to increase state license
1395 fees, and such increases shall become effective July 1 of the following year.

1396 **§ 4.1-1001. Fees for state licenses.**

1397 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover
1398 the costs of regulating the marijuana establishment.

1399 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall
1400 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by
1401 the number of months in the license period, and then increased by five percent. Such fee shall not be
1402 refundable, except as provided in § 4.1-1002.

1403 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state
1404 restaurant license or any other state tax. Every licensee, in addition to the taxes and fees imposed by this
1405 subtitle, shall be liable to state merchants' license taxation, state restaurant license taxation, and other state
1406 taxation.

1407 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license
1408 purchased in person from the Board if such license is available for purchase online.

1409 **§ 4.1-1002. Refund of state license fee.**

1410 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any
1411 amounts collected through erroneous assessments or collected as fees on licenses applications that are
1412 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is
1413 subsequently merged or changed into another license during the same license period. No refund shall be
1414 made of any such amount, however, unless made within three years from the date of collection of the
1415 same.

1416 B. In any case where a licensee has changed its name or form of organization during a license
1417 period without any change being made in its ownership, and because of such change is required to pay an
1418 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so
1419 paid in excess of the required license fee for such period.

1420 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees
1421 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the

1422 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or
1423 similar natural disaster or phenomenon.

1424 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out
1425 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1426 **§ 4.1-1003. Marijuana taxes; exceptions.**

1427 A. A tax of 4.5 percent is levied on the sale in the Commonwealth of any marijuana, marijuana
1428 products, or marijuana paraphernalia. Such tax shall be in lieu of any tax imposed under the Virginia Retail
1429 Sales and Use Tax Act (§ 58.1-600 et seq.). The tax shall not apply to any sale:

1430 1. From a marijuana establishment to another marijuana establishment.

1431 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1432 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§
1433 3.2-4112 et seq.) of Title 3.2.

1434 4. Of a hemp product.

1435 B. Any locality may by ordinance levy a 4.5 percent tax on any sale taxable under subsection A.
1436 Such tax shall be in lieu of any local sales tax imposed under the Virginia Retail Sales and Use Tax Act
1437 (§ 58.1-600 et seq.), any food and beverage tax imposed under Article 7.1 (§ 58.1-3833 et seq.) of Chapter
1438 38 of Title 58.1, and any excise tax imposed on meals under § 58.1-3840. Other than the taxes authorized
1439 and identified in this subsection, a locality shall not impose any other tax on a sale taxable under subsection

1440 A. Nothing in this subsection shall be construed to (i) prohibit a locality from imposing any tax authorized
1441 by law on a person or property regulated under this subtitle or (ii) limit the authority of any locality to
1442 impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under
1443 this subsection A if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b)
1444 is an annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under
1445 subsection A in its taxable measure.

1446 If a locality imposes a tax under this subsection, such tax shall be irrevocable. If a town imposes a
1447 tax under this subsection, any tax imposed by its surrounding county under this subsection shall not apply
1448 within the limits of the town.

1449 Any locality that enacts an ordinance pursuant to this subsection shall, within 30 days, notify the
1450 Authority and any retail marijuana store in such locality of the ordinance's enactment. The ordinance shall
1451 take effect on the first day of the second month following its enactment.

1452 C. All revenues remitted to the Authority under this subsection shall be disposed of as provided in
1453 § 4.1-614.

1454 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1455 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All
1456 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not
1457 be liable for collecting or remitting the taxes or filing a return.

1458 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall
1459 file a return under oath with the Authority and pay any taxes due. Upon written application by a person
1460 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the
1461 calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the
1462 accrual of any interest or penalties under § 4.1-1007.

1463 C. The Authority may accept payment by any commercially acceptable means, including cash,
1464 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due
1465 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

1466 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit
1467 card, or automated clearinghouse transfer information and use such information for future payments of
1468 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any

1469 payments made under this subsection. The Authority may procure the services of a third-party vendor for
1470 the secure storage of information collected pursuant to this subsection.

1471 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the
1472 business, such person shall make a final return and payment within 15 days after the date of selling or
1473 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase
1474 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner
1475 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or
1476 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as
1477 provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties
1478 due and unpaid on account of the operation of the business by any former owner.

1479 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a
1480 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under
1481 § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

1482 **§ 4.1-1005. Bonds.**

1483 The Authority may, when deemed necessary and advisable to do so in order to secure the collection
1484 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety
1485 as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become
1486 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with
1487 the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold
1488 by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to
1489 do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the
1490 surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

1491 **§ 4.1-1006. Refunds.**

1492 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §
1493 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise
1494 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii)
1495 destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the
1496 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,
1497 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund
1498 payment from the state treasury to such extent as may be proper.

1499 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable
1500 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall
1501 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such
1502 extent as may be proper.

1503 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-
1504 1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of
1505 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax
1506 so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller
1507 after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct
1508 the same in submitting his return.

1509 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
1510 **penalties.**

1511 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which
1512 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the
1513 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the
1514 collection of such taxes may be begun without assessment, at any time within six years from such date.
1515 The Authority shall not examine any person's records beyond the three-year period of limitations unless

1516 it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to
1517 file a return and failed to do so.

1518 B. If any person fails to file a return as required by this section, or files a return that is false or
1519 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person
1520 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10
1521 days' notice requiring such person to provide any records as it may require relating to the business of such
1522 person for the taxable period. The Authority may require such person or the agents and employees of such
1523 person to give testimony or to answer interrogatories under oath administered by the Authority respecting
1524 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a
1525 required return, refuses to provide required records, or refuses to answer interrogatories from the
1526 Authority, the Authority may make an estimated assessment based upon the information available to it
1527 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.
1528 The estimated assessment shall be deemed prima facie correct.

1529 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not
1530 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the
1531 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which
1532 the person's place of business is located or in which the person resides. If the person has no place of
1533 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of
1534 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties
1535 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment
1536 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as
1537 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may
1538 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time
1539 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien
1540 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,
1541 in those instances where the Authority determines that the collection of any tax, penalties, or interest
1542 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may
1543 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given
1544 to the person at his last known address.

1545 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to
1546 appeal under § 4.1-1008.

1547 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the
1548 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing
1549 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each
1550 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or
1551 satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias
1552 to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior
1553 approval of the Authority. In the event that the person against whom the distraint has been applied
1554 subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount
1555 of liability in lieu of payment until the appeal is resolved.

1556 4. A person may petition the Authority after a memorandum of lien has been filed under this
1557 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination
1558 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a
1559 certificate of release of the lien within seven days after such determination is made.

1560 **§ 4.1-1008. Appeals.**

1561 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the
1562 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to
1563 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire

1564 evidential record of the proceedings provided by the Authority in accordance with the Administrative
1565 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding
1566 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by
1567 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in
1568 any such case.

1569 **§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age**
1570 **or older lawful; penalties.**

1571 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a
1572 person 21 years of age or older may lawfully possess on his person or in any public place not more than
1573 ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as
1574 determined by regulation promulgated by the Board.

1575 B. Any person who possesses on his person or in any public place marijuana or marijuana products
1576 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except
1577 as otherwise provided in this section. The penalty for any violations of this section by an adult shall be
1578 prepayable according to the procedures in § 16.1-69.40:2.

1579 C. With the exception of possession by a person in his residence or possession by a licensee in the
1580 course of his duties related to such licensee's marijuana establishment, any person who possesses on his
1581 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an
1582 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty
1583 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more
1584 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation
1585 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one
1586 year nor more than 10 years and a fine of not more than \$250,000, or both.

1587 D. The provisions of this section shall not apply to members of federal, state, county, city, or town
1588 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
1589 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
1590 necessary for the performance of their duties.

1591 **§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.**

1592 A. ~~Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a~~ A person 21 years of age
1593 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at
1594 no point shall a household contain more than four marijuana plants. For purposes of this section, a
1595 "household" means those individuals, whether related or not, who live in the same house or other place of
1596 residence.

1597 A person may only cultivate marijuana plants pursuant to this section at such person's main place
1598 of residence.

1599 A violation of this subsection shall be punishable as follows:

1600 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a
1601 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class
1602 2 misdemeanor for a third and any subsequent offense;

1603 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1604 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1605 4. For possession of more than 100 marijuana plants, a felony punishable by a term of
1606 imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or
1607 both.

1608 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1609 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,
1610 binoculars, or other optical aids;

1611 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1612 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or
1613 identification number, and a notation that the marijuana plant is being grown for personal use as authorized
1614 under this section.

1615 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The
1616 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §
1617 16.1-69.40:2.

1618 ~~C. A person shall not manufacture marijuana concentrate from home cultivated marijuana. The~~
1619 ~~owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to~~
1620 ~~manufacture marijuana concentrate from home cultivated marijuana within or on that property or land.~~

1621 **§ 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana**
1622 **products; conspiracy; penalties.**

1623 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or
1624 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this
1625 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1626 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1627 C. If two or more persons conspire together to do any act that is in violation of subsection A, and
1628 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such
1629 conspiracy is guilty of a Class 6 felony.

1630 **§ 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.**

1631 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons
1632 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in
1633 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the
1634 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of
1635 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods
1636 or services.

1637 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,
1638 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in
1639 subsection C, he is guilty of a Class 2 misdemeanor.

1640 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1641 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that
1642 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1643 **§ 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of**
1644 **legal age; penalties.**

1645 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give,
1646 or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows
1647 or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age
1648 or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1
1649 misdemeanor.

1650 B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any
1651 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of
1652 the sale does not require the individual to present bona fide evidence of legal age indicating that the
1653 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal
1654 age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by
1655 any state of the United States or the District of Columbia, military identification card, United States
1656 passport or foreign government visa, unexpired special identification card issued by the Department of
1657 Motor Vehicles, or any other valid government-issued identification card bearing the individual's
1658 photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably
1659 appears to match the appearance of the purchaser. A student identification card shall not constitute bona

1660 fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this
1661 subsection is guilty of a Class 3 misdemeanor.

1662 C. No person shall be convicted of both subsections A and B for the same sale.

1663 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**
1664 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1665 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-
1666 1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or
1667 marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement
1668 officer or his agent when possession of marijuana or marijuana products is necessary in the performance
1669 of his duties. Such person may be prosecuted either in the county or city in which the marijuana or
1670 marijuana products were possessed or consumed or in the county or city in which the person exhibits
1671 evidence of physical indicia of consumption of marijuana or marijuana products.

1672 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of
1673 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,
1674 if available, that in the opinion of the court best suits the needs of the accused.

1675 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who
1676 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the
1677 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion
1678 of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-
1679 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1680 D. Any such substance abuse treatment or education program to which a juvenile is ordered
1681 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral
1682 Health and Developmental Services or (ii) a similar program available through a facility or program
1683 operated by or under contract with the Department of Juvenile Justice or a locally operated court services
1684 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et
1685 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or
1686 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of
1687 Behavioral Health and Developmental Services or (b) a program or services made available through a
1688 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of
1689 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local
1690 community-based probation services agency, the local community-based probation services agency shall
1691 be responsible for providing for services or referring the offender to education or treatment services as a
1692 condition of probation.

1693 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender
1694 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years
1695 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a
1696 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth
1697 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued
1698 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth
1699 certificate, or student identification card of another person in order to establish a false identification or
1700 false age for himself to consume, purchase, or attempt to consume or purchase marijuana or marijuana
1701 products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1702 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be
1703 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1704 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state
1705 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded
1706 immunity from an administrative penalty for a violation of § 4.1-1104.

1707 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be**
1708 **sold; penalties; forfeiture.**

1709 A. Any person who purchases marijuana or marijuana products for another person and at the time
1710 of such purchase knows or has reason to believe that the person for whom the marijuana or marijuana
1711 products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1712 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of
1713 marijuana or marijuana products to, another person when he knows or has reason to know that such person
1714 is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when
1715 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a
1716 Class 1 misdemeanor.

1717 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed
1718 contraband and forfeited to the Commonwealth in accordance with § 4.1-1303.

1719 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1720 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of
1721 every description where marijuana or marijuana products are manufactured, processed, stored, sold,
1722 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed
1723 common nuisances.

1724 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common
1725 nuisance.

1726 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1727 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not
1728 involved in the original offense, by a proceeding analogous to that provided in § 4.1-1303 and upon proof
1729 of guilty knowledge, judgment may be given that such house, boathouse, building, boat, car, or other
1730 place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the
1731 penalty of not less than \$500 and with security to be approved by the court, conditioned that the premises
1732 shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a period of
1733 five years, turn the same over to its owner or lessor, or proceeding may be had in equity as provided in §
1734 4.1-1300.

1735 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or
1736 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)
1737 had the right, because of such unlawful use, to enter and repossess the property.

1738 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1739 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
1740 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered
1741 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
1742 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,
1743 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a
1744 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5
1745 felony.

1746 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1747 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,
1748 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum
1749 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board
1750 to hold and conduct such hearing.

1751 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1752 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1753 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional
 1754 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile
 1755 correctional center any marijuana or marijuana products.

1756 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1757 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1758 A. No person shall separate plant resin by butane extraction or another method that utilizes a
 1759 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
 1760 the curtilage of any residential structure.

1761 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1762 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1763 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another
 1764 in doing, or attempting to do, any of the things prohibited by this subtitle.

1765 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court
 1766 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same
 1767 as if the defendant were solely guilty of such violation.

1768 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1769 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in
 1770 the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be
 1771 proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under
 1772 this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such
 1773 violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this
 1774 section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed
 1775 pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the
 1776 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1777 **CHAPTER 12.**

1778 **PROHIBITED PRACTICES BY LICENSEES.**

1779 **§ 4.1-1200. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.**

1780 A. No licensee or any agent or employee of such licensee shall:

1781 1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other
 1782 than that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

1783 2. Sell marijuana or marijuana products to any person other than a person to whom such license or
 1784 this subtitle authorizes him to sell;

1785 3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or
 1786 this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle
 1787 authorizes him to cultivate, process, transport, sell, or test;

1788 4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden
 1789 by this subtitle;

1790 5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or
 1791 marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by
 1792 such license or by this subtitle;

1793 6. Keep any marijuana or marijuana product other than in the container in which it was purchased
 1794 by him; or

1795 7. Allow a person younger than 21 years of age to be employed by or volunteer for such licensee.

1796 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1797 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

1798 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or
 1799 employee shall use or consume any marijuana or marijuana products (i) on the licensed premises, except

1800 for certain sampling for quality control purposes in accordance with Board regulations or (ii) while on
1801 duty and in a position that is involved in the selling of marijuana or marijuana products to consumers.

1802 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana
1803 or marijuana products.

1804 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an
1805 amount not to exceed \$500.

1806 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person**
1807 **without a license; penalty.**

1808 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for
1809 resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased
1810 from anyone other than a marijuana cultivation facility or marijuana processing facility.

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

1812 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**

1813 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from
1814 one licensed place of business to another licensed place of business unless such transfer is completed by
1815 a marijuana transporter licensee.

1816 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1817 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1818 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to
1819 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or
1820 decorations under circumstances prohibited by this title or Board regulations.

1821 Any person found by the Board to have violated this section shall be subject to a civil penalty as
1822 authorized in § 4.1-903.

1823 **§ 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
1824 **accounts or to allow examination and inspection; penalty.**

1825 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,
1826 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)
1827 allow such records, invoices, and accounts or his place of business to be examined and inspected in
1828 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1
1829 misdemeanor.

1830 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority
1831 may suspend or revoke any license of such licensee that was issued by the Authority.

1832 **§ 4.1-1206. Nonpayment of marijuana tax; penalties.**

1833 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due.
1834 No retail marijuana store licensee shall purchase, receive, transport, store, or sell any marijuana or
1835 marijuana products on which such retailer has reason to know such tax has not been paid and may not be
1836 paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1837 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil
1838 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not
1839 more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during
1840 which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1841 C. In the case of a false or fraudulent return, where willful intent exists to defraud the
1842 Commonwealth of any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the
1843 amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed
1844 under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when
1845 any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

1846 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the
1847 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount

1848 due within five days after the Authority gives it notice that such check was returned unpaid, the person
1849 that tendered the check is guilty of a violation of § 18.2-182.1.

1850 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same
1851 manner as if they were a part of the tax imposed.

1852 **§ 4.1-1300. Enjoining nuisances.**

1853 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney
1854 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined
1855 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common
1856 nuisance.

1857 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the
1858 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or
1859 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house,
1860 building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction
1861 shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the
1862 owners and tenants and their agents and employees, and any person connected with such house, building,
1863 or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing,
1864 giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain
1865 all persons from removing any marijuana or marijuana products then on such premises until the further
1866 order of the court. If the court is satisfied that the material allegations of the bill are true, although the
1867 premises complained of may not then be unlawfully used, it shall continue the injunction against such
1868 place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is
1869 shown for dissolution.

1870 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**
1871 **forfeiture.**

1872 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,
1873 all marijuana or marijuana products and materials used in their manufacture or processing, and all
1874 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or in
1875 any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described
1876 in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person
1877 is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of
1878 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other
1879 beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the
1880 immediate vicinity of any place where marijuana or marijuana products are being unlawfully
1881 manufactured or processed and where such animal or vehicle is being used to aid in the unlawful
1882 manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

1883 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §
1884 4.1-1303 for all such property except motor vehicles, which proceedings shall be in accordance with
1885 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1886 **§ 4.1-1303. Confiscation proceedings; disposition of forfeited articles.**

1887 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and
1888 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1889 B. Whenever any article declared contraband under the provisions of this subtitle and required to
1890 be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with
1891 the enforcement of this subtitle, he shall produce the contraband article and any person in whose
1892 possession it was found. In those cases where no person is found in possession of such articles, the return
1893 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the
1894 articles were found, or if there is no door, then in any conspicuous place upon the premises.

1895 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to
1896 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy
1897 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the
1898 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the
1899 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of
1900 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,
1901 and the materials remaining after such destruction. The report shall include a statement that, from facts
1902 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set
1903 up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that
1904 it was impracticable to remove such apparatus to a place of safe storage.

1905 In case of seizure of any quantity of marijuana or marijuana products for any offense involving
1906 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof
1907 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or
1908 any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness,
1909 and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the
1910 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and
1911 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness
1912 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful
1913 cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in
1914 violation of this subtitle.

1915 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than
1916 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on
1917 such return to determine whether or not the articles seized, or any part thereof, were used or in any manner
1918 kept, stored, or possessed in violation of this subtitle.

1919 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
1920 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn
1921 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the
1922 hearing and file a written claim setting forth particularly the character and extent of his interest. The court
1923 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and
1924 determine the validity of such claim.

1925 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized
1926 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall
1927 not be a bar to any prosecution under any other provision of this subtitle.

1928 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with
1929 this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales
1930 shall be paid into the Literary Fund.

1931 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the
1932 Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose
1933 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall
1934 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.
1935 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the
1936 date when given and shall be kept in the offices of the Board.

1937 **§ 4.1-1304. Contraband marijuana or marijuana products.**

1938 Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by
1939 the Board authorizing the transportation of marijuana or marijuana products within the Commonwealth
1940 when other Board regulations applicable to such transportation have been complied with shall not be cause
1941 for deeming such marijuana or marijuana products contraband.

1942 **§ 4.1-1305. Punishment for violations of title or regulations; bond.**

1943 A. Any person convicted of a misdemeanor under the provisions of this subtitle without
1944 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or
1945 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

1946 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any
1947 person is convicted of a violation of any provision of this subtitle may require such defendant to execute
1948 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with
1949 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one
1950 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,
1951 or until he is discharged by the court, provided that he shall not be confined for a period longer than six
1952 months. If any such bond required by a court is not given during the term of the court by which conviction
1953 is had, it may be given before any judge or before the clerk of such court.

1954 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or
1955 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

1956 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his
1957 assistant has been notified that such a case is pending.

1958 **§ 4.1-1306. Witness not excused from testifying because of self-incrimination.**

1959 No person shall be excused from testifying for the Commonwealth as to any offense committed
1960 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given
1961 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be
1962 used against him and he shall not be prosecuted for the offense to which he testifies.

1963 **§ 4.1-1307. Previous convictions.**

1964 In any indictment, information, or warrant charging any person with a violation of any provision
1965 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that
1966 such person has been previously convicted of a violation of this subtitle.

1967 **§ 4.1-1308. Label on sealed container prima facie evidence of marijuana content.**

1968 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing
1969 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of
1970 the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana
1971 content of a container, whether sealed or not.

1972 **§ 4.1-1309. No recovery for marijuana or marijuana products illegally sold.**

1973 No action to recover the price of any marijuana or marijuana products sold in contravention of this
1974 subtitle may be maintained.

1975 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1976 The Board shall establish a testing program for marijuana and marijuana products. Except as
1977 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,
1978 prior to selling or distributing marijuana or a marijuana product to a consumer or to another licensee, to
1979 submit a representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total
1980 harvest or batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or
1981 marijuana product does not exceed the maximum level of allowable contamination for any contaminant
1982 that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall
1983 adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable
1984 testing and research practices, including regulations relating to testing practices, methods, and standards;
1985 quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping,
1986 documentation, and business practices; disposal of used, unused, and waste marijuana and marijuana
1987 products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health
1988 for which marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the
1989 maximum level of allowable contamination for each contaminant.

1990 § 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not
1991 required; required destruction; random testing.

1992 A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to
1993 another licensee under this subtitle unless a representative sample of the marijuana or marijuana product
1994 has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the
1995 mandatory testing has demonstrated that (i) the marijuana or marijuana product does not exceed the
1996 maximum level of allowable contamination for any contaminant that is injurious to health and for which
1997 testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

1998 B. Mandatory testing of marijuana and marijuana products under this section shall include testing
1999 for:

- 2000 1. Residual solvents;
- 2001 2. Heavy metals;
- 2002 3. Microbiological contaminants;
- 2003 4. Mycotoxins;
- 2004 5. Pesticide chemical residue; and
- 2005 6. Active ingredient analysis.

2006 Testing shall be performed on the final form in which the marijuana or marijuana product will be
2007 consumed.

2008 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
2009 marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana
2010 testing facility, and the results of the mandatory test.

2011 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested
2012 marijuana or marijuana product exceeds the maximum level of allowable tetrahydrocannabinol or
2013 contamination for any contaminant that is injurious to health and for which testing is required, the
2014 marijuana testing facility shall immediately quarantine, document, and properly destroy the marijuana or
2015 marijuana product and within seven days of completing the test shall notify the Board of the test results.

2016 A marijuana testing facility is not required to notify the Board of the results of any test:

2017 1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this
2018 section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of
2019 allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for
2020 which testing is required;

2021 2. Conducted on marijuana or a marijuana product at the direction of a licensee for research and
2022 development purposes only, so long as the licensee notifies the marijuana testing facility prior to the
2023 performance of the test that the testing is for research and development purposes only; or

2024 3. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee.

2025 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another
2026 licensee marijuana or a marijuana product that the licensee has not submitted for testing in accordance
2027 with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

2028 1. The marijuana or marijuana product has previously undergone testing in accordance with this
2029 subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing
2030 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable
2031 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing
2032 is required;

2033 2. The mandatory testing process and the test results for the marijuana or marijuana product are
2034 documented in accordance with the requirements of this subtitle and all applicable regulations adopted
2035 pursuant to this subtitle;

2036 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
2037 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or
2038 to a consumer can be easily identified; and

2039 4. The marijuana or marijuana product has not undergone any further processing, manufacturing,
2040 or alteration subsequent to the performance of the prior testing under subsection A.

2041 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana
2042 products whose testing samples indicate noncompliance with the health and safety standards required by
2043 this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures
2044 can bring the marijuana or marijuana product into compliance with such required health and safety
2045 standards.

2046 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for
2047 the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

2048 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

2049 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer
2050 shall be labeled with the following information:

2051 1. Identification of the type of marijuana or marijuana product;

2052 2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and
2053 the retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered
2054 for sale, as applicable;

2055 3. A statement of the net weight of the marijuana or marijuana product;

2056 4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,
2057 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid
2058 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains
2059 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the
2060 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and
2061 (v) the potency of the tetrahydrocannabinol and other cannabinoid content;

2062 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

2063 6. Instructions on usage, including information regarding the amount of marijuana or marijuana
2064 product that constitutes a single serving;

2065 7. A recommended use by date or expiration date;

2066 8. For marijuana and marijuana products, the following statement, prominently displayed in bold
2067 print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS
2068 MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD
2069 TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF
2070 CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO
2071 DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE USED WHILE
2072 PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT _____ (website
2073 maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";

2074 9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana
2075 products;

2076 10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total
2077 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the
2078 batch from which the substance originates; and

2079 11. Any other information required by Board regulations.

2080 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
2081 accordance with the provisions of this subtitle shall be packaged in the following manner:

2082 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and
2083 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-
2084 resistant, tamper-evident, and resealable packaging that is opaque;

2085 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
2086 component; and

2087 3. Packaging shall comply with any other requirements imposed by Board regulations.

2088 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in
2089 accordance with the provisions of this subtitle shall not:

2090 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise
2091 be labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other
2092 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or
2093 distributor of a product intended for human consumption other than the manufacturer, processor, packer,
2094 or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise
2095 be packaged or labeled in violation of a federal trademark law or regulation;

2096 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years
2097 of age;

2098 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2099 4. Be labeled or packaged using a false or misleading label;

2100 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a
2101 human, animal, vehicle, or fruit; and

2102 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed
2103 by Board regulations.

2104 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**
2105 **marijuana products deemed applicable by the Authority; health and safety regulations.**

2106 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other
2107 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a
2108 consumer:

2109 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2110 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2111 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within
2112 the product being homogeneous throughout the product or throughout each element of the product that
2113 has a cannabinoid content;

2114 4. Shall be processed and manufactured in a manner that results in the amount of marijuana
2115 concentrate within the product being homogeneous throughout the product or throughout each element of
2116 the product that contains marijuana concentrate;

2117 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2118 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product
2119 and shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2120 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically
2121 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to
2122 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger
2123 than 21 years of age; and

2124 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when
2125 the trademarked product is used as a component of or ingredient in the edible marijuana product and the
2126 edible marijuana product is not advertised or described for sale as containing the trademarked product.

2127 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations
2128 that it deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee
2129 to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall

2130 establish mandatory health and safety standards applicable to the cultivation of marijuana, the processing
2131 and manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana
2132 products sold by a licensee to a consumer. Such regulations shall address:

2133 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana
2134 products by licensees;

2135 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing
2136 and manufacture of marijuana and marijuana products; and

2137 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.

2138 **§ 4.1-1500. Definitions.**

2139 As used in this chapter, unless the context requires a different meaning:

2140 "CDFI" means a community development financial institution that provides credit and financial
2141 services for underserved communities.

2142 "Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

2143 "Funding" means loans and grants made from the Fund.

2144 "Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

2145 ~~"Social equity qualified cannabis licensee" means a person or business who meets the criteria in §~~
2146 ~~4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring,~~
2147 ~~as determined by the Board, a license to operate a marijuana establishment.~~

2148 **§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.**

2149 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
2150 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be
2151 established on the books of the Comptroller. All funds appropriated for such purpose and any gifts,
2152 donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and
2153 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.
2154 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not
2155 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
2156 purposes of providing grants, low-interest loans, and zero-interest loans, and other supports and services
2157 ~~to social equity qualified cannabis micro business~~ licensees in order to foster business ownership and
2158 economic growth within communities that have been the most disproportionately impacted by the former
2159 prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State
2160 Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive
2161 Officer of the Authority.

2162 **§ 4.1-1502. Program requirements; guidelines for management of the Fund; selection of**
2163 **CDFI.**

2164 A. The Authority shall establish a Program to provide loans, grants, and other supports and services
2165 ~~to qualified social equity cannabis micro business~~ licensees for the purpose of promoting business
2166 ownership and economic growth by communities that have been disproportionately impacted by the
2167 prohibition of cannabis. ~~The For the purposes of issuing loans, the Authority shall may select and work in~~
2168 ~~collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the~~
2169 ~~Fund. The If the Authority utilizes a CDFI for issuing loans, the~~ CDFI selected by the Authority shall have
2170 (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record of
2171 working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage
2172 the Program. ~~Working with the selected CDFI, the~~ The Authority shall establish monitoring and
2173 accountability mechanisms for micro businesses receiving funding and shall report annually the number
2174 of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the
2175 outcomes, including the number and types of jobs created.

2176 B. The Program shall:

2177 1. Identify ~~social equity qualified cannabis~~ micro business licensees who are in need of capital or
2178 other supports and services for the start-up of a cannabis business properly licensed pursuant to the
2179 provisions of this subtitle;

2180 2. Provide loans, grants, and other supports and services for the purposes described in subsection
2181 A and § 4.1-1501;

2182 3. Provide technical assistance; and

2183 4. Bring together community partners to sustain the Program.

2184 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2185 A. A practitioner in the course of his professional practice may issue a written certification for the
2186 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease
2187 determined by the practitioner to benefit from such use. The practitioner shall use his professional
2188 judgment to determine the manner and frequency of patient care and evaluation and may employ the use
2189 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-
2190 time interactive audiovisual technology. No practitioner may issue a written certification while such
2191 practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A
2192 pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to
2193 patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis
2194 to a minor, the written certification shall specifically authorize such dispensing. If not specifically included
2195 on the initial written certification, authorization for botanical cannabis may be communicated verbally or
2196 in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall
2197 not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor,
2198 cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis
2199 dispensing facility, or provider of paraphernalia, excluding information on products or educational
2200 materials on the benefits and risks of cannabis products.

2201 B. The written certification shall be on a form provided by the Authority. Such written certification
2202 shall contain the name, address, and telephone number of the practitioner, the name and address of the
2203 patient issued the written certification, the date on which the written certification was made, and the
2204 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to
2205 subsection A shall expire one year after its issuance unless the practitioner provides in such written
2206 certification an earlier expiration. A written certification shall not be issued to a patient by more than one
2207 practitioner during any given time period.

2208 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-
2209 248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or
2210 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification
2211 issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional
2212 licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical
2213 condition or otherwise violating the applicable standard of care for evaluating or treating medical
2214 conditions.

2215 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall
2216 hold sufficient education and training to exercise appropriate professional judgment in the certification of
2217 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian,
2218 or registered agent that is contingent on or encourages the person's decision to use a particular
2219 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family
2220 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than
2221 those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a
2222 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients
2223 to whom a practitioner may issue a written certification. The Board may report information to the
2224 applicable licensing board on unusual patterns of certifications issued by a practitioner.

2225 E. No patient shall be required to physically present the written certification after the initial
2226 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written
2227 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an
2228 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities
2229 shall electronically transmit on a monthly basis all new written certifications received by the
2230 pharmaceutical processor or cannabis dispensing facility to the Authority.

2231 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such
2232 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes
2233 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall
2234 register with the Board unless the individual's name listed on the patient's written certification. An
2235 individual may, on the basis of medical need and in the discretion of the patient's registered practitioner,
2236 be listed on the patient's written certification upon the patient's request. The Board may set a limit on the
2237 number of patients for whom any individual is authorized to act as a registered agent.

2238 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing
2239 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility
2240 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or
2241 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for
2242 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product
2243 to the patient or resident as necessary.

2244 H. Information obtained under the patient certification or agent registration process shall be
2245 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information
2246 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the
2247 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)
2248 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a
2249 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents,
2250 for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained
2251 by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a
2252 patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2253 **§ 4.1-1604. Criminal liability; exceptions.**

2254 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be
2255 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or
2256 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to
2257 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional
2258 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes
2259 of producing cannabis products in accordance with the provisions of this chapter and Board regulations
2260 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally
2261 accepted cannabis industry standards in accordance with the provisions of this chapter and Board
2262 regulations.

2263 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**
2264 **operation.**

2265 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the
2266 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any
2267 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a
2268 state correctional facility not less than one nor more than five years, or, in the discretion of the court or
2269 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or
2270 both such fine and imprisonment.

2271 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the
2272 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the

2273 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger
2274 any person or property, ~~shall be~~ is guilty of a misdemeanor.

2275 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2276 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
2277 provided in § 4.1-600.

2278 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,
2279 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to
2280 any state law or regulation solely for providing such a financial service or for further investing any income
2281 derived from such a financial service.

2282 C. Nothing in this section shall require a bank or credit union to provide financial services to a
2283 licensed marijuana establishment.

2284 **§ 9.1-1101. Powers and duties of the Department.**

2285 A. It shall be the responsibility of the Department to provide forensic laboratory services upon
2286 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical
2287 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,
2288 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;
2289 the head of any private police department that has been designated as a criminal justice agency by the
2290 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal
2291 matter. The Department shall provide such services to any federal investigatory agency within available
2292 resources.

2293 B. The Department shall:

2294 1. Provide forensic laboratory services to all law-enforcement agencies throughout the
2295 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the
2296 Commonwealth as needed;

2297 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et
2298 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2299 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once
2300 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of
2301 breath; ~~and~~

2302 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)
2303 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-
2304 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall
2305 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall
2306 include the total available THC derived from the sum of the THC and THC-A content.

2307 C. The Department shall have the power and duty to:

2308 1. Receive, administer, and expend all funds and other assistance available for carrying out the
2309 purposes of this chapter;

2310 2. Make and enter into all contracts and agreements necessary or incidental to the performance of
2311 its duties and execution of its powers under this chapter including, but not limited to, contracts with the
2312 United States, units of general local government or combinations thereof in Virginia or other states, and
2313 with agencies and departments of the Commonwealth; and

2314 3. Perform such other acts as may be necessary or convenient for the effective performance of its
2315 duties.

2316 D. The Director may appoint and employ a deputy director and such other personnel as are needed
2317 to carry out the duties and responsibilities conferred by this chapter.

2318 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**
2319 **finest; prepayment of local ordinances.**

2320 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or
2321 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic
2322 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.
2323 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any
2324 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic
2325 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without
2326 court appearance whether or not he was involved in an accident. The prepayable fine amount for a
2327 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,
2328 as authorized in § 46.2-878.3.

2329 Such infractions shall not include:

2330 1. Indictable offenses;

2331 2. [Repealed.]

2332 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a
2333 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating
2334 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant
2335 or in his custody or control;

2336 4. Reckless driving;

2337 5. Leaving the scene of an accident;

2338 6. Driving while under suspension or revocation of driving privileges;

2339 7. Driving without being licensed to drive.

2340 8. [Repealed.]

2341 B. An appearance may be made in person or in writing by mail to a clerk of court or in person
2342 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver
2343 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,
2344 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his
2345 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record
2346 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

2347 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall
2348 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to
2349 be imposed, designating each infraction specifically. The schedule, which may from time to time be
2350 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.
2351 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying
2352 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall
2353 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance
2354 with the provisions of this Code or any rules or regulations promulgated thereunder.

2355 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state
2356 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection
2357 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of
2358 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be
2359 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such
2360 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit
2361 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform
2362 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit
2363 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be
2364 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the
2365 provisions of this Code or any rules or regulations promulgated thereunder.

2366 **§ 16.1-260. Intake; petition; investigation.**

2367 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing
2368 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2369 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2370 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2371 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,
2372 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with
2373 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,
2374 and file petitions and motions relating to the establishment, modification, or enforcement of support on
2375 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees
2376 of a local department of social services may complete, sign, and file with the clerk, on forms approved by
2377 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning
2378 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or
2379 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf
2380 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be
2381 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child
2382 shall be referred initially to the local department of social services in accordance with the provisions of
2383 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be
2384 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
2385 inquire whether the petitioner is receiving child support services or public assistance. No individual who
2386 is receiving support services or public assistance shall be denied the right to file a petition or motion to
2387 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child
2388 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the
2389 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.
2390 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner
2391 information on the possible availability of medical assistance through the Family Access to Medical
2392 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of
2393 Medical Assistance Services.

2394 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2395 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2396 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2397 communications and proceedings shall be conducted in the same manner as if the appearance were in
2398 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or
2399 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,
2400 effect, authority, and liability as an original document. All signatures thereon shall be treated as original
2401 signatures. Any two-way electronic video and audio communication system used for an appearance shall
2402 meet the standards as set forth in subsection B of § 19.2-3.1.

2403 When the court service unit of any court receives a complaint alleging facts which may be
2404 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,
2405 may proceed informally to make such adjustment as is practicable without the filing of a petition or may
2406 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish
2407 probable cause for the issuance of the petition.

2408 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
2409 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent
2410 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for
2411 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed
2412 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for
2413 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had

2414 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense
2415 that would be a felony if committed by an adult.

2416 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258
2417 and the attendance officer has provided documentation to the intake officer that the relevant school
2418 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with
2419 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy
2420 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated
2421 in need of supervision on more than two occasions for failure to comply with compulsory school
2422 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication
2423 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,
2424 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy
2425 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or
2426 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be
2427 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with
2428 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the
2429 appropriate public agency for the purpose of developing a truancy plan using an interagency
2430 interdisciplinary team approach. The team may include qualified personnel who are reasonably available
2431 from the appropriate department of social services, community services board, local school division, court
2432 service unit, and other appropriate and available public and private agencies and may be the family
2433 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the
2434 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer
2435 shall file the petition.

2436 Whenever informal action is taken as provided in this subsection on a complaint alleging that a
2437 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a
2438 plan for the juvenile, which may include restitution, the performance of community service, or on a
2439 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or
2440 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal
2441 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon
2442 community resources and the circumstances which resulted in the complaint, (B) create an official record
2443 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the
2444 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant
2445 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon
2446 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case
2447 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any
2448 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply
2449 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in
2450 the filing of a petition with the court.

2451 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
2452 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
2453 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
2454 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
2455 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective
2456 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,
2457 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-
2458 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file
2459 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in
2460 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause
2461 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile

2462 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to
2463 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order
2464 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures
2465 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or
2466 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-
2467 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits
2468 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2469 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
2470 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in
2471 need of supervision have utilized or attempted to utilize treatment and services available in the community
2472 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake
2473 officer determines that the parties have not attempted to utilize available treatment or services or have not
2474 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the
2475 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to
2476 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that
2477 the parties have made a reasonable effort to utilize available community treatment or services may he
2478 permit the petition to be filed.

2479 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
2480 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely
2481 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of
2482 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the
2483 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification
2484 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice
2485 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide
2486 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate
2487 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
2488 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer
2489 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds
2490 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may
2491 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses
2492 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
2493 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition
2494 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as
2495 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is
2496 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a
2497 magistrate for a warrant.

2498 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,
2499 the intake officer shall accept and file a petition founded upon the warrant.

2500 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
2501 which alleges facts of an offense which would be a felony if committed by an adult.

2502 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
2503 report with the division superintendent of the school division in which any student who is the subject of a
2504 petition alleging that such student who is a juvenile has committed an act, wherever committed, which
2505 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
2506 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent
2507 of the filing of the petition and the nature of the offense, if the violation involves:

2508 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
2509 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;

- 2510 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2511 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
- 2512 Title 18.2;
- 2513 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2514 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
- 2515 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2516 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11~~ (~~§ 18.2-247 4.1-~~
- 2517 ~~1100 et seq.) of Chapter 7 of Title 18.2~~ 4.1;
- 2518 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2519 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2520 9. Robbery pursuant to § 18.2-58;
- 2521 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 2522 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2523 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2524 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2525 14. A threat pursuant to § 18.2-60.

2526 The failure to provide information regarding the school in which the student who is the subject of
 2527 the petition may be enrolled shall not be grounds for refusing to file a petition.

2528 The information provided to a division superintendent pursuant to this section may be disclosed
 2529 only as provided in § 16.1-305.2.

2530 H. The filing of a petition shall not be necessary:

2531 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking
 2532 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
 2533 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.
 2534 In such cases the court may proceed on a summons issued by the officer investigating the violation in the
 2535 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident
 2536 may, at the scene of the accident or at any other location where a juvenile who is involved in such an
 2537 accident may be located, proceed on a summons in lieu of filing a petition.

2538 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection
 2539 H of § 16.1-241.

2540 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission
 2541 of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or
 2542 legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or
 2543 legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent
 2544 or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
 2545 manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation
 2546 of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath
 2547 or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12
 2548 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize
 2549 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and
 2550 the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be
 2551 tried. When a violation of § 4.1-305 or 4.1-1105 is charged by summons, the juvenile shall be entitled to
 2552 have the charge referred to intake for consideration of informal proceedings pursuant to subsection B,
 2553 provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial.
 2554 At the time such summons alleging a violation of § 4.1-305 or 4.1-1105 is served, the officer shall also
 2555 serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved
 2556 by the Supreme Court and make return of such service to the court. If the officer fails to make such service
 2557 or return, the court shall dismiss the summons without prejudice.

2558 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,
2559 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake
2560 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation
2561 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed
2562 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian
2563 of the juvenile.

2564 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
2565 of the jurisdiction granted it in § 16.1-241.

2566 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
2567 **impact statement.**

2568 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
2569 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
2570 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
2571 violations, the court before final disposition thereof may require an investigation, which (i) shall include
2572 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include
2573 a social history of the physical, mental, and social conditions, including an assessment of any affiliation
2574 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
2575 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent
2576 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by
2577 an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of
2578 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if
2579 committed by an adult, or (c) a violation of § 4.1-1105, the court shall order the juvenile to undergo a drug
2580 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,
2581 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500
2582 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an
2583 individual employed by or currently under contract to such agencies and who is specifically trained to
2584 conduct such assessments under the supervision of such counselor.

2585 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
2586 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
2587 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
2588 physical, psychological, or economic injury as a result of the violation of law.

2589 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
2590 **offenses; truancy.**

2591 A. If a court has found facts which would justify a finding that a child at least 13 years of age at
2592 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
2593 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
2594 a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250;
2595 (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or
2596 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol
2597 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public
2598 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar
2599 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
2600 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
2601 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's
2602 license. In addition to any other penalty authorized by this section, if the offense involves a violation
2603 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court
2604 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense
2605 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be

2606 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
2607 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
2608 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or
2609 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by
2610 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's
2611 license shall be delayed for a period of six months following the date he reaches the age of 16 and three
2612 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose
2613 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer
2614 disposition of the delinquency charge until such time as the court disposes of the case pursuant to
2615 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
2616 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter
2617 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving
2618 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a
2619 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
2620 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
2621 which case the denial of driving privileges shall be for a period of two years unless the offense is
2622 committed by a child under the age of 16 years and three months, in which event the child's ability to
2623 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age
2624 of 16 and three months.

2625 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
2626 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving
2627 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of
2628 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period
2629 of not less than 30 days following the date he reaches the age of 16 and three months.

2630 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
2631 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's
2632 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16
2633 and three months, as may be appropriate.

2634 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
2635 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
2636 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one
2637 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such
2638 offense.

2639 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
2640 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held
2641 in the physical custody of the court during any period of license denial.

2642 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
2643 which shall preserve a record thereof. The report and the record shall include a statement as to whether
2644 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
2645 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,
2646 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and
2647 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless
2648 the proceeding results in an adjudication of guilt pursuant to subsection F.

2649 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
2650 driver's license until such time as is stipulated in the court order or until notification by the court of
2651 withdrawal of the order of denial under subsection E.

2652 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
2653 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol

2654 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may
2655 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or
2656 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon
2657 such terms and conditions as the court may set forth.

2658 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
2659 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
2660 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set
2661 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license
2662 shall be issued for travel to and from home and school when school-provided transportation is available
2663 and no restricted license shall be issued if the finding as to such child involves a violation designated
2664 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense
2665 designated in subsection A, a second finding by the court of failure to comply with school attendance and
2666 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a
2667 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set
2668 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate
2669 the restrictions imposed and contain such information regarding the child as is reasonably necessary to
2670 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.
2671 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section
2672 is guilty of a violation of § 46.2-301.

2673 E. Upon petition made at least 90 days after issuance of the order, the court may review and
2674 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
2675 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed
2676 and withdrawn until one year after its issuance.

2677 F. If the finding as to such child involves a first violation designated under clause (vii) of
2678 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's
2679 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or
2680 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
2681 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
2682 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
2683 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
2684 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a
2685 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant
2686 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the
2687 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the
2688 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

2689 **§ 18.2-46.1. Definitions.**

2690 As used in this article, unless the context requires a different meaning:

2691 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or
2692 subsection A of § 19.2-297.1.

2693 "Criminal street gang" means any ongoing organization, association, or group of three or more
2694 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
2695 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
2696 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt
2697 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of
2698 which is an act of violence, provided such acts were not part of a common act or transaction.

2699 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
2700 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-95, 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127,
2701 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-

2702 287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation
2703 of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, ~~or 18.2-248, or~~
2704 ~~18.2-248.1~~ or a conspiracy to commit a felony violation of § 4.1-1101, ~~or 18.2-248, or 18.2-248.1~~; (v) any
2705 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense
2706 under the laws of another state or territory of the United States, the District of Columbia, or the United
2707 States.

2708 **§ 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"**
2709 **"imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.**

2710 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used
2711 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-
2712 3400 et seq.).

2713 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
2714 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a
2715 controlled substance subject to abuse, and:

2716 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging
2717 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
2718 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
2719 into commerce prior to the initial introduction into commerce of the controlled substance which it is
2720 alleged to imitate; or

2721 2. Which by express or implied representations purports to act like a controlled substance as a
2722 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
2723 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless
2724 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2725 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
2726 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
2727 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
2728 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
2729 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
2730 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where
2731 and how it is sold to the public.

2732 D. ~~The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~
2733 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~
2734 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~
2735 ~~"Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or~~
2736 ~~eake made from the seed of such plant, unless such stalks, fiber, oil or eake is combined with other parts~~
2737 ~~of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person~~
2738 ~~registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-~~
2739 ~~4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of~~
2740 ~~Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial~~
2741 ~~hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer,~~
2742 ~~ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into~~
2743 ~~one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.~~

2744 **E. The term "counterfeit controlled substance" means a controlled substance that, without**
2745 **authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to**
2746 **bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness**
2747 **thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer,**
2748 **processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such**
2749 **drug.**

2750 F.—E. The term "tetrahydrocannabinol" means any naturally occurring or synthetic
2751 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such
2752 salts, isomers, and salts of isomers is possible within the specific chemical designation and any
2753 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of
2754 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and
2755 geometric isomers.

2756 G.—F. The term "total tetrahydrocannabinol" means the sum, after the application of any necessary
2757 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of
2758 tetrahydrocannabinolic acid.

2759 H.—G. The Department of Forensic Science shall determine the proper methods for detecting the
2760 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100
2761 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or
2762 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into
2763 tetrahydrocannabinol.

2764 § 18.2-248. **Manufacturing, selling, giving, distributing, or possessing with intent to**
2765 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**
2766 **prohibited; penalties.**

2767 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for
2768 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or
2769 distribute a controlled substance or an imitation controlled substance.

2770 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
2771 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
2772 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
2773 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,
2774 whether the amount of such consideration was substantially greater than the reasonable value of such pill,
2775 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of
2776 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at
2777 which over-the-counter substances of like chemical composition sell.

2778 C. Except as provided in subsection C1, any person who violates this section with respect to a
2779 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
2780 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
2781 violation, and it is alleged in the warrant, indictment, or information that the person has been before
2782 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
2783 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date
2784 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion
2785 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less
2786 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served
2787 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2788 When a person is convicted of a third or subsequent offense under this subsection and it is alleged
2789 in the warrant, indictment or information that he has been before convicted of two or more such offenses
2790 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed
2791 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the
2792 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not
2793 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served
2794 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2795 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
2796 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million

2797 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of
2798 imprisonment to be served consecutively with any other sentence:

- 2799 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
2800 2. 500 grams or more of a mixture or substance containing a detectable amount of:
2801 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2802 derivatives of ecgonine or their salts have been removed;
2803 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
2804 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
2805 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
2806 referred to in subdivisions ~~2a through 2c~~ a, b, and c;
2807 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~
2808 that contain cocaine base; or
2809 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
2810 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
2811 salts of its isomers.

2812 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection
2813 shall not be applicable if the court finds that:

- 2814 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
2815 b. The person did not use violence or credible threats of violence or possess a firearm or other
2816 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
2817 c. The offense did not result in death or serious bodily injury to any person;
2818 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and
2819 was not engaged in a continuing criminal enterprise as defined in subsection I; and
2820 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
2821 Commonwealth all information and evidence the person has concerning the offense or offenses that were
2822 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
2823 relevant or useful other information to provide or that the Commonwealth already is aware of the
2824 information shall not preclude a determination by the court that the defendant has complied with this
2825 requirement.

2826 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,
2827 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
2828 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
2829 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
2830 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing
2831 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined
2832 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection
2833 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two
2834 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would
2835 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the
2836 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life
2837 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of
2838 imprisonment to be served consecutively with any other sentence and he shall be fined not more than
2839 \$500,000.

2840 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall
2841 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
2842 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
2843 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
2844 expenses associated with cleanup, removal, or repair of the affected property. If the property that is

2845 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
 2846 property owned in whole or in part by the person convicted, the court shall order the person to pay to the
 2847 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses
 2848 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses
 2849 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that
 2850 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according
 2851 to the guidelines established pursuant to § 32.1-11.7.

2852 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
 2853 controlled substance classified in Schedule I or II only as an accommodation to another individual who is
 2854 not an inmate in a community correctional facility, local correctional facility or state correctional facility
 2855 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from
 2856 any consideration received or expected nor to induce the recipient or intended recipient of the controlled
 2857 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty
 2858 of a Class 5 felony.

2859 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
 2860 prescription of a person authorized under this article to issue the same, which prescription has not been
 2861 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
 2862 received by the pharmacist within one week of the time of filling the same, or if such violation consists of
 2863 a request by such authorized person for the filling by a pharmacist of a prescription which has not been
 2864 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request
 2865 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4
 2866 misdemeanor.

2867 E1. Any person who violates this section with respect to a controlled substance classified in
 2868 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-
 2869 248.5, ~~shall be~~ is guilty of a Class 5 felony.

2870 E2. Any person who violates this section with respect to a controlled substance classified in
 2871 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

2872 E3. Any person who proves that he gave, distributed or possessed with the intent to give or
 2873 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified
 2874 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
 2875 who is not an inmate in a community correctional facility, local correctional facility or state correctional
 2876 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
 2877 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2878 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
 2879 guilty of a Class 1 misdemeanor.

2880 F. Any person who violates this section with respect to a controlled substance classified in
 2881 Schedule V or Schedule VI or an imitation controlled substance ~~which that~~ that imitates a controlled substance
 2882 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2883 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~
 2884 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6
 2885 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection
 2886 that the defendant believed the imitation controlled substance to actually be a controlled substance.

2887 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to
 2888 manufacture, sell, give or distribute the following:

- 2889 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2890 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 2891 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2892 derivatives of ecgonine or their salts have been removed;

2893 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 2894 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 2895 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the
 2896 substances referred to in subdivisions a ~~through, b, and~~ c;
 2897 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which that~~ contains
 2898 cocaine base; or
 2899 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~
 2900 ~~or~~
 2901 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams
 2902 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
 2903 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and
 2904 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
 2905 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a
 2906 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or
 2907 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense
 2908 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious
 2909 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others
 2910 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I ~~of this~~
 2911 ~~section~~; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the
 2912 Commonwealth all information and evidence the person has concerning the offense or offenses that were
 2913 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
 2914 relevant or useful other information to provide or that the Commonwealth already is aware of the
 2915 information shall not preclude a determination by the court that the defendant has complied with this
 2916 requirement.
 2917 H1. Any person who was the principal or one of several principal administrators, organizers or
 2918 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at
 2919 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
 2920 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the
 2921 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
 2922 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
 2923 distribute the following during any 12-month period of its existence:
 2924 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
 2925 detectable amount of heroin;
 2926 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a
 2927 detectable amount of:
 2928 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 2929 derivatives of ecgonine or their salts have been removed;
 2930 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 2931 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 2932 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the
 2933 substances referred to in subdivisions a ~~through, b, and~~ c;
 2934 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
 2935 subdivision 2 ~~which that~~ contains cocaine base; or
 2936 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
 2937 ~~detectable amount of marijuana; or~~
 2938 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
 2939 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
 2940 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

2941 A conviction under this section shall be punishable by a fine of not more than \$1 million and
2942 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2943 H2. Any person who was the principal or one of several principal administrators, organizers or
2944 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts
2945 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin
2946 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof
2947 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess
2948 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its
2949 existence:

- 2950 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
- 2951 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:
 - 2952 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2953 derivatives of ecgonine or their salts have been removed;
 - 2954 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2955 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2956 d. Any compound, mixture, or preparation ~~which that~~ which that contains any quantity of any of the
 - 2957 substances referred to in subdivisions a ~~through, b, and~~ c;
- 2958 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ which that contains
- 2959 cocaine base; or
- 2960 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~
- 2961 ~~or~~

2962 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
2963 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
2964 isomers, or salts of its isomers ~~shall be is~~ is guilty of a felony punishable by a fine of not more than \$1
2965 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
2966 punishment shall be made to run consecutively with any other sentence. However, the court may impose
2967 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
2968 with law-enforcement authorities.

2969 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
2970 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
2971 is a part of a continuing series of violations of this section which are undertaken by such person in concert
2972 with five or more other persons with respect to whom such person occupies a position of organizer, a
2973 supervisory position, or any other position of management, and from which such person obtains
2974 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or
2975 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in
2976 association with any criminal street gang as defined in § 18.2-46.1.

2977 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses
2978 any two or more different substances listed below with the intent to manufacture methamphetamine,
2979 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,
2980 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture
2981 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,
2982 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium
2983 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,
2984 or 2-propanone.

2985 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
2986 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
2987 salts of optical isomers.

2988 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2989 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
2990 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
2991 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
2992 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
2993 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
2994 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
2995 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
2996 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
2997 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
2998 other sentence.

2999 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
3000 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
3001 **costs and fees; violations; discharge.**

3002 Whenever any person who has not previously been convicted of any criminal offense under this
3003 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or
3004 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
3005 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of
3006 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts
3007 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the
3008 consent of the accused, may defer further proceedings and place him on probation upon terms and
3009 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk
3010 of court has been provided with the fingerprint identification information or fingerprints of the person,
3011 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and
3012 photograph of the person be taken by a law-enforcement officer.

3013 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
3014 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
3015 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
3016 based upon consideration of the substance abuse assessment. The program or services may be located in
3017 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
3018 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
3019 Developmental Services, by a similar program which is made available through the Department of
3020 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
3021 (iii) an ASAP program certified by the Commission on VASAP.

3022 The court shall require the person entering such program under the provisions of this section to
3023 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
3024 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
3025 indigent.

3026 As a condition of probation, the court shall require the accused (a) to successfully complete
3027 treatment or education program or services, (b) to remain drug and alcohol free during the period of
3028 probation and submit to such tests during that period as may be necessary and appropriate to determine if
3029 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
3030 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
3031 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising
3032 probation agency or personnel of any program or agency approved by the supervising probation agency.

3033 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
3034 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
3035 court has been provided with the fingerprint identification information or fingerprints of such person, the
3036 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under

3037 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
3038 section in subsequent proceedings.

3039 Notwithstanding any other provision of this section, whenever a court places an individual on
3040 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
3041 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for
3042 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

3043 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

3044 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
3045 consumption or use of a controlled substance, alcohol, or any combination of such substances.

3046 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or
3047 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of
3048 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1105, possession of a controlled substance pursuant to § 18.2-250,
3049 intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-
3050 3466 if:

3051 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,
3052 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an
3053 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains
3054 emergency medical attention for such individual, by contemporaneously reporting such overdose to a
3055 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a
3056 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,
3057 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the
3058 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing
3059 an overdose while another individual seeks or obtains emergency medical attention in accordance with
3060 this subdivision;

3061 2. Such individual remains at the scene of the overdose or at any alternative location to which he
3062 or the person requiring emergency medical attention has been transported until a law-enforcement officer
3063 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose
3064 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set
3065 forth herein;

3066 3. Such individual identifies himself to the law-enforcement officer who responds to the report of
3067 the overdose; and

3068 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
3069 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or
3070 assistance.

3071 C. The provisions of this section shall not apply to any person who seeks or obtains emergency
3072 medical attention for himself or another individual, to a person experiencing an overdose when another
3073 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency
3074 care or assistance to an individual experiencing an overdose while another person seeks or obtains
3075 emergency medical attention during the execution of a search warrant or during the conduct of a lawful
3076 search or a lawful arrest.

3077 D. This section does not establish protection from arrest or prosecution for any individual or
3078 offense other than those listed in subsection B.

3079 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
3080 determined that the person arrested was immune from prosecution under this section.

3081 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

3082 No school nurse employed by a local school board, person employed by a local health department
3083 who is assigned to the public school pursuant to an agreement between the local health department and
3084 the school board, or other person employed by or contracted with a local school board to deliver health-

3085 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~
 3086 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or
 3087 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student
 3088 who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

3089 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**
 3090 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

3091 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and
 3092 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted
 3093 under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for the possession
 3094 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a
 3095 patient or resident who has been issued a valid written certification for the use of cannabis oil in
 3096 accordance with § 4.1-1601.

3097 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**
 3098 **Department of Agriculture and Consumer Services, Department of Law employees.**

3099 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or
 3100 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,
 3101 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of
 3102 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §
 3103 18.2-248, ~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial
 3104 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations
 3105 promulgated by the Board of Pharmacy and the Board of Agriculture and Consumer Services.

3106 B. No employee of the Department of Agriculture and Consumer Services or of the Department of
 3107 Law shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or ~~§ 18.2-247~~, 18.2-248, 18.2-
 3108 248.01, ~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance
 3109 containing tetrahydrocannabinol when possession of industrial hemp or any substance containing
 3110 tetrahydrocannabinol is necessary in the performance of his duties.

3111 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**
 3112 **testing, and treatment or education.**

3113 The trial judge or court trying the case of any person found guilty of a criminal violation of any
 3114 law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious
 3115 chemical substances and like substances shall condition any suspended sentence by first requiring such
 3116 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such
 3117 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing
 3118 shall be conducted by the supervising probation agency or by personnel of any program or agency
 3119 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid
 3120 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order
 3121 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance
 3122 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance
 3123 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the
 3124 Department of Behavioral Health and Developmental Services, by a similar program or services available
 3125 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court
 3126 imposes a sentence of 12 months or less, by a similar program or services available through a local or
 3127 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an
 3128 ASAP program certified by the Commission on VASAP.

3129 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3130 A. Whenever any person who has not previously been convicted of any criminal offense under this
 3131 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,
 3132 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for

3133 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law
 3134 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
 3135 substances, and like substances, the judge or court shall require such person to undergo a substance abuse
 3136 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
 3137 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid
 3138 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court
 3139 shall also order the person to undergo such treatment or education for substance abuse, if available, as the
 3140 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
 3141 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral
 3142 Health and Developmental Services or by a similar program or services available through the Department
 3143 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of
 3144 12 months or less, by a similar program or services available through a local or regional jail, a local
 3145 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program
 3146 certified by the Commission on VASAP.

3147 B. The court trying the case of any person alleged to have committed any criminal offense
 3148 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in
 3149 which the commission of the offense was motivated by or closely related to the use of drugs and
 3150 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of
 3151 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,
 3152 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed
 3153 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,
 3154 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for
 3155 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
 3156 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as
 3157 confinement in a penal institution and the person so committed may be convicted of escape if he leaves
 3158 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction
 3159 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.
 3160 The court may revoke such commitment at any time and transfer the person to an appropriate state or local
 3161 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
 3162 to the effect that the confined person has successfully responded to treatment, the court may release such
 3163 confined person prior to the termination of the period of time for which such person was confined and
 3164 may suspend the remainder of the term upon such conditions as the court may prescribe.

3165 C. The court trying a case in which commission of the criminal offense was related to the
 3166 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse
 3167 screening and assessment, that such defendant is in need of treatment, may commit, based upon a
 3168 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the
 3169 treatment of persons with substance abuse licensed by the Department of Behavioral Health and
 3170 Developmental Services, if space is available in such facility, for a period of time not in excess of the
 3171 maximum term of imprisonment specified as the penalty for conviction. Confinement under such
 3172 commitment shall be, in all regards, treated as confinement in a penal institution and the person so
 3173 committed may be convicted of escape if he leaves the place of commitment without authority. The court
 3174 may revoke such commitment at any time and transfer the person to an appropriate state or local
 3175 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
 3176 to the effect that the confined person has successfully responded to treatment, the court may release such
 3177 confined person prior to the termination of the period of time for which such person was confined and
 3178 may suspend the remainder of the term upon such conditions as the court may prescribe.

3179 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3180 A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54-1, it
 3181 shall be ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 3182 distribute any drug classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of age
 3183 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
 3184 distribution of any drug classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this
 3185 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10
 3186 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
 3187 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
 3188 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
 3189 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3190 B. It shall be ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally
 3191 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
 3192 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation
 3193 controlled substance. Any person violating this provision shall be ~~is~~ guilty of a Class 6 felony.

3194 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**
 3195 **in administering controlled substances to minors; penalty.**

3196 It shall be ~~is~~ a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
 3197 to a minor any book, pamphlet, periodical, or other printed matter ~~which that~~ he knows advertises for sale
 3198 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
 3199 administering, preparing, or growing ~~marijuana or a controlled substance.~~

3200 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
 3201 **penalty.**

3202 A. It shall be ~~is~~ unlawful for any person to manufacture, sell or distribute or possess with intent to
 3203 sell, give, or distribute any controlled substance, ~~or~~ imitation controlled substance, ~~or marijuana~~ while:

3204 1. Upon the property, including buildings and grounds, of any public or private elementary or
 3205 secondary school, any institution of higher education, or any clearly marked licensed child day center as
 3206 defined in § 22.1-289.02;

3207 2. Upon public property or any property open to public use within 1,000 feet of the property
 3208 described in subdivision 1;

3209 3. On any school bus as defined in § 46.2-100;

3210 4. Upon a designated school bus stop, or upon either public property or any property open to public
 3211 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting
 3212 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

3213 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 3214 recreation or community center facility or any public library; or

3215 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
 3216 property open to public use within 1,000 feet of such ~~an institution facility~~. It is a violation of the
 3217 provisions of this section if the person possessed the controlled substance, ~~or~~ imitation controlled
 3218 substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the
 3219 person intended to sell, give, or distribute the controlled substance, ~~or~~ imitation controlled substance, ~~or~~
 3220 ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3221 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 3222 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
 3223 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for
 3224 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§
 3225 54.1-3400 et seq.) ~~or more than one half ounce of marijuana~~ shall be punished by a mandatory minimum
 3226 term of imprisonment of one year to be served consecutively with any other sentence. However, if such
 3227 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another

3228 individual and not with intent to profit thereby from any consideration received or expected nor to induce
 3229 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to
 3230 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3231 C. If a person commits an act violating the provisions of this section, and the same act also violates
 3232 another provision of law that provides for penalties greater than those provided for by this section, then
 3233 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
 3234 law or the imposition of any penalties provided for thereby.

3235 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3236 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
 3237 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with
 3238 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,
 3239 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances
 3240 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
 3241 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
 3242 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
 3243 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
 3244 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
 3245 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3246 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3247 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
 3248 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially
 3249 altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful
 3250 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing
 3251 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be
 3252 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
 3253 of a Class 5 felony.

3254 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**
 3255 **fraud, deceit or forgery.**

3256 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or
 3257 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
 3258 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
 3259 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
 3260 giving of a false address.

3261 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any
 3262 information from, or willfully make a false statement in, any prescription, order, report, record, or other
 3263 document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

3264 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of
 3265 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued
 3266 to another person.

3267 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
 3268 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,
 3269 physician, dentist, veterinarian or other authorized person.

3270 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false
 3271 or forged written order.

3272 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle
 3273 containing any controlled substance.

3274 G. This section shall not apply to officers and employees of the United States, of this
 3275 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their

3276 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
 3277 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
 3278 investigative, research or analytical purposes and who are acting in the course of their employment;
 3279 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic
 3280 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized
 3281 representatives file with the Board such information as the Board may deem appropriate.

3282 H. Except as otherwise provided in this subsection, any person who shall violate any provision
 3283 herein ~~shall be~~ is guilty of a Class 6 felony.

3284 Whenever any person who has not previously been convicted of any offense under this article or
 3285 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,
 3286 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
 3287 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
 3288 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a
 3289 finding of guilt, the court may place him on probation upon terms and conditions.

3290 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
 3291 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs
 3292 of the accused. This program may be located in the judicial circuit in which the charge is brought or in
 3293 any other judicial circuit as the court may provide. The services shall be provided by a program certified
 3294 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require
 3295 the person entering such program under the provisions of this section to pay all or part of the costs of the
 3296 program, including the costs of the screening, evaluation, testing and education, based upon the person's
 3297 ability to pay unless the person is determined by the court to be indigent.

3298 As a condition of supervised probation, the court shall require the accused to remain drug free
 3299 during the period of probation and submit to such tests during that period as may be necessary and
 3300 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
 3301 any screening, evaluation, and education program to which the person is referred or by the supervising
 3302 agency.

3303 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
 3304 report to the original arresting law-enforcement agency to submit to fingerprinting.

3305 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
 3306 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
 3307 shall find the defendant guilty of a Class 1 misdemeanor.

3308 **§ 18.2-265.1. Definition.**

3309 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials
 3310 of any kind which are either designed for use or which are intended by the person charged with violating
 3311 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
 3312 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
 3313 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 3314 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3315 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or
 3316 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled
 3317 substance can be derived;

3318 2. Kits intended for use or designed for use in manufacturing, compounding, converting,
 3319 producing, processing, or preparing ~~marijuana~~ or controlled substances;

3320 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 3321 or any species of plant ~~which~~ that is a controlled substance;

- 3322 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 3323 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 3324 determine whether a controlled substance contains fentanyl or a fentanyl analog;
- 3325 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 3326 controlled substances;
- 3327 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use
 3328 or designed for use in cutting controlled substances;
- 3329 ~~7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds
 3330 from, or in otherwise cleaning or refining, marijuana;~~
- 3331 ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 3332 compounding controlled substances;
- 3333 ~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in
 3334 packaging small quantities of ~~marijuana~~ or controlled substances;
- 3335 ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing
 3336 ~~marijuana~~ or controlled substances;
- 3337 ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in
 3338 parenterally injecting controlled substances into the human body;
- 3339 ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 3340 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 3341 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
 3342 screens, ~~hashish heads~~, or punctured metal bowls;
- 3343 b. Water pipes;
- 3344 c. Carburetion tubes and devices;
- 3345 d. Smoking and carburetion masks;
- 3346 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that
 3347 has become too small or too short to be held in the hand;
- 3348 f. Miniature cocaine spoons, and cocaine vials;
- 3349 g. Chamber pipes;
- 3350 h. Carburetor pipes;
- 3351 i. Electric pipes;
- 3352 j. Air-driven pipes;
- 3353 k. Chillums;
- 3354 l. Bongs;
- 3355 m. Ice pipes or chillers.
- 3356 **§ 18.2-265.2. Evidence to be considered in cases under this article.**
- 3357 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
 3358 other relevant evidence, the following:
- 3359 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 3360 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
 3361 known to the accused;
- 3362 3. Instructions, oral or written, provided with the object concerning its use;
- 3363 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 3364 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 3365 6. The manner in which the object is displayed for sale;
- 3366 7. Whether the accused is a legitimate supplier of like or related items to the community, such as
 3367 a licensed distributor or dealer of tobacco products;
- 3368 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
 3369 business enterprise;

3370 9. The existence and scope of legitimate uses for the object in the community;

3371 10. Expert testimony concerning its use or the purpose for which it was designed; and

3372 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
3373 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
3374 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is
3375 intended for use or designed for use as drug paraphernalia.

3376 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3377 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3378 circumstances where one reasonably should know, that it is either designed for use or intended by such
3379 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3380 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3381 otherwise introduce into the human body ~~marijuana or a controlled substance,~~ shall be is guilty of a Class
3382 1 misdemeanor.

3383 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3384 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class
3385 6 felony.

3386 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor
3387 ~~shall be is~~ guilty of a Class 1 misdemeanor.

3388 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3389 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony
3390 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1,~~ has in his possession a firearm or knife
3391 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~
3392 is guilty of a Class 4 felony.

3393 **§ 18.2-308.012. Prohibited conduct.**

3394 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,
3395 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1
3396 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
3397 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of
3398 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
3399 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
3400 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
3401 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
3402 apply for a concealed handgun permit for a period of five years.

3403 B. No person who carries a concealed handgun onto the premises of any restaurant or club as
3404 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption
3405 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an
3406 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises
3407 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.
3408 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

3409 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3410 A. ~~It shall be is~~ unlawful for any person unlawfully in possession of a controlled substance
3411 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously
3412 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3413 constitutes a separate and distinct felony.

3414 B. ~~It shall be is~~ unlawful for any person unlawfully in possession of a controlled substance
3415 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with
3416 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class
3417 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be

3418 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate
 3419 and apart from, and shall be made to run consecutively with, any punishment received for the commission
 3420 of the primary felony.

3421 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,
 3422 or other firearm or display such weapon in a threatening manner while committing or attempting to commit
 3423 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
 3424 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-
 3425 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and
 3426 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
 3427 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
 3428 from, and shall be made to run consecutively with, any punishment received for the commission of the
 3429 primary felony.

3430 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
 3431 **penalties.**

3432 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
 3433 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
 3434 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
 3435 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
 3436 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-
 3437 6555, he is guilty of a Class 1 misdemeanor.

3438 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 3439 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-
 3440 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in
 3441 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1
 3442 misdemeanor.

3443 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
 3444 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,
 3445 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any
 3446 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~
 3447 ~~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~~
 3448 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3449 D. Any person who knowingly and willfully makes any materially false statement or representation
 3450 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
 3451 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3452 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
 3453 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this
 3454 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-
 3455 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer
 3456 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
 3457 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such
 3458 communication knows or should know that he is not free to leave.

3459 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3460 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner
 3461 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of
 3462 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 3463 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which that~~ is a controlled
 3464 substance regulated by the Drug Control Act ~~in Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1 or marijuana~~
 3465 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver

3466 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or
3467 explosives of any nature is guilty of a Class 3 felony.

3468 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3469 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
3470 **authorizing interception of communications.**

3471 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates
3472 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
3473 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
3474 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
3475 communications by the Department of State Police, when such interception may reasonably be expected
3476 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
3477 any felony violation of § 18.2-248 or 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.)
3478 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
3479 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
3480 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit
3481 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for
3482 authorization for the observation or monitoring of the interception by a police department of a county or
3483 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be
3484 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

3485 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3486 1. In the case of an application for a wire or electronic interception, a judge of competent
3487 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable
3488 cause to believe that an offense was committed, is being committed, or will be committed or the person
3489 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic
3490 communication system, maintain an address or a post office box, or are making the communication within
3491 the territorial jurisdiction of the court.

3492 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have
3493 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
3494 offense was committed, is being committed, or will be committed or the physical location of the oral
3495 communication to be intercepted is within the territorial jurisdiction of the court.

3496 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception
3497 of a wire or electronic communication, such communication shall be deemed to be intercepted in the
3498 jurisdiction where the order is entered, regardless of the physical location or the method by which the
3499 communication is captured or routed to the monitoring location.

3500 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3501 A. The following officers shall have the powers of arrest as provided in this section:

- 3502 1. Members of the State Police force of the Commonwealth;
- 3503 2. Sheriffs of the various counties and cities, and their deputies;
- 3504 3. Members of any county police force or any duly constituted police force of any city or town of
3505 the Commonwealth;
- 3506 4. The Commissioner, members and employees of the Marine Resources Commission granted the
3507 power of arrest pursuant to § 28.2-900;
- 3508 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3509 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
3510 petty officers authorized under § 29.1-205 to make arrests;
- 3511 7. Conservation officers appointed pursuant to § 10.1-115;
- 3512 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
3513 appointed pursuant to § 46.2-217;

3514 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis
3515 Control Authority;

3516 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
3517 23.1; and

3518 11. Members of the Division of Capitol Police.

3519 B. Such officers may arrest without a warrant any person who commits any crime in the presence
3520 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having
3521 committed a felony not in his presence.

3522 Such officers may arrest without a warrant any person whom the officer has probable cause to
3523 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §
3524 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in
3525 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person
3526 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting
3527 officer.

3528 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
3529 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved
3530 in such accident has been transported, or in the apprehension of any person charged with the theft of any
3531 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
3532 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
3533 crime has been committed by any person then and there present, apprehend such person without a warrant
3534 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location
3535 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement
3536 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

3537 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
3538 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,
3539 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
3540 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
3541 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
3542 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
3543 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued
3544 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3545 E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in
3546 another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout,
3547 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,
3548 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a
3549 reasonably accurate description of such person wanted and the crime alleged.

3550 F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not
3551 committed in his presence when the officer receives a radio message from his department or other law-
3552 enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

3553 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in
3554 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,
3555 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
3556 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,
3557 when such property is located on premises used for business or commercial purposes, or a similar local
3558 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who
3559 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this
3560 section for a misdemeanor violation involving shoplifting.

3561 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3562 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §
3563 19.2-81, persons for crimes involving:

- 3564 (a) ~~1.~~ The escape of an inmate from a correctional institution, as defined in § 53.1-1;
3565 (b) ~~2.~~ Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
3566 (c) ~~3.~~ The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or ~~§ 18.2-~~
3567 474.1; and
3568 (d) ~~4.~~ Any other criminal offense ~~which that~~ may contribute to the disruption of the safety, welfare,
3569 or security of the population of a correctional institution.

3570 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3571 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3572 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is
3573 known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher
3574 or any other employee in any local school division in the Commonwealth for a felony or a Class 1
3575 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division
3576 safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such
3577 person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the
3578 report required pursuant to this subsection shall be utilized by the local school division solely to implement
3579 the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

3580 B. The report required pursuant to subsection A shall be transmitted to the division safety official
3581 (i) via certified mail, return receipt requested, to the mailing address identified by the division
3582 superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and
3583 email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any
3584 certified mail return receipt shall be retained in the case file.

3585 C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to
3586 Virginia Employment Commission records, each arresting official shall request in writing that the Virginia
3587 Employment Commission provide the name of the current employer of each person arrested for an offense
3588 set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

3589 D. Every state official or agency and every sheriff, police officer, or other local law-enforcement
3590 officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as
3591 practicable, with the division superintendent of the school division in which the student is enrolled upon
3592 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in
3593 any local school division in the Commonwealth for:

- 3594 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-
3595 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;
3596 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3597 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
3598 Title 18.2;
3599 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
3600 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
3601 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
3602 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 Chapter 11 (§ 18.2-247 4.1-~~
3603 1100 et seq.) of Chapter 7 of Title 18.2 4.1;
3604 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
3605 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
3606 9. Robbery pursuant to § 18.2-58;
3607 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
3608 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;
3609 12. An act of violence by a mob pursuant to § 18.2-42.1; or

3610 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3611 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3612 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article
3613 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement
3614 officer shall be permitted to testify as to the results of field tests that have been approved by the Department
3615 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§
3616 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing
3617 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§§ 4.1-600 and~~
3618 18.2-247.

3619 B. In any trial for a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer
3620 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable
3621 by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3622 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3623 of which is at issue, is marijuana provided the defendant has been given written notice of his right to
3624 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall
3625 be provided to the defendant prior to trial.

3626 In any case in which the person accused of a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, or
3627 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he
3628 may, by motion prior to trial before the court in which the charge is pending, request such a chemical
3629 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3630 Forensic Science in accordance with the provisions of ~~§ 18.2-247~~ 9.1-1101 and shall prescribe in its order
3631 the method of custody, transfer, and return of evidence submitted for chemical analysis.

3632 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3633 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3634 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3635 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3636 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-
3637 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-
3638 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
3639 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in
3640 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations
3641 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).
3642 In determining whether the defendant has provided substantial assistance pursuant to the provisions of
3643 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the
3644 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance
3645 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by
3646 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger
3647 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the
3648 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,
3649 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not
3650 known to the defendant until more than one year after entry of the final judgment order, (2) information
3651 provided by the defendant within one year of entry of the final judgment order but that did not become
3652 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)
3653 information the usefulness of which could not reasonably have been anticipated by the defendant until
3654 more than one year after entry of the final judgment order and which was promptly provided to the
3655 Commonwealth by the defendant after its usefulness was reasonably apparent.

3656 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
3657 **transactions.**

3658 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
3659 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter
3660 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,
3661 and all other personal and real property of any kind or character, used in substantial connection with (a)
3662 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or
3663 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or~~
3664 ~~possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~
3665 ~~248.1~~ § 4.1-1103, or (c) a drug-related offense in violation of § 4.1-1117 or 18.2-474.1; (ii) everything of
3666 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-
3667 248 or for marijuana in violation of ~~§ 18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in
3668 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to
3669 such an exchange, together with any interest or profits derived from the investment of such money or other
3670 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the
3671 minimum prescribed punishment for the violation is a term of not less than five years.

3672 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
3673 Chapter 22.1 (§ 19.2-386.1 et seq.).

3674 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3675 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the
3676 lawful possession of which is not established or the title to which cannot be ascertained, which have come
3677 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-
3678 1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of
3679 as follows:

3680 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
3681 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of
3682 any such substance or paraphernalia to the Department of Forensic Science, the Department of State
3683 Police, or to such police department or sheriff's office for research and training purposes and for
3684 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
3685 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3686 2. In the event no application is made under subdivision 1, the court shall order the destruction of
3687 all such substances or paraphernalia, which order shall state the existence and nature of the substance or
3688 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
3689 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
3690 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
3691 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for
3692 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,
3693 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the
3694 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal
3695 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima
3696 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or
3697 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in
3698 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written
3699 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a
3700 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,
3701 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the
3702 order is directed.

3703 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter
3704 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as

3705 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-
3706 386.24.

3707 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
3708 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
3709 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
3710 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not
3711 result in the requesting agency's exceeding the limits allowed by this subsection.

3712 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,
3713 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
3714 inventory of such substance on a monthly basis, which shall include a description and weight of the
3715 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research
3716 and training purposes. A written report outlining the details of the inventory shall be made to the chief
3717 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency
3718 shall detail the substances that were used for research and training pursuant to a court order in the
3719 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with
3720 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,
3721 and manner of destruction.

3722 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3723 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in
3724 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or
3725 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds
3726 of the substance randomly selected from the seized substance for representative purposes as evidence and
3727 destroy the remainder of the seized substance.

3728 Before any destruction is carried out under this section, the law-enforcement agency shall cause
3729 the material seized to be photographed with identification case numbers or other means of identification
3730 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
3731 party, if known, or his attorney, at least five days in advance that the photography will take place and that
3732 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also
3733 notify the accused or other interested party, if known, and his attorney at least seven days prior to the
3734 destruction of the time and place the destruction will occur. Any notice required under the provisions of
3735 this section shall be by first-class mail to the last known address of the person required to be notified. In
3736 addition to the substance retained for representative purposes as evidence, all photographs and records
3737 made under this section and properly identified shall be admissible in any court proceeding for any
3738 purposes for which the seized substance itself would have been admissible.

3739 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
3740 **substances, etc.**

3741 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency
3742 to take into its custody or to maintain custody of substantial quantities of any controlled substances,
3743 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3744 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title
3745 18.2. The court in its order may make provision for ensuring integrity of these items until further order of
3746 the court.

3747 **§ 19.2-389. Dissemination of criminal history record information.**

3748 A. Criminal history record information shall be disseminated, whether directly or through an
3749 intermediary, only to:

3750 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
3751 purposes of the administration of criminal justice and the screening of an employment application or
3752 review of employment by a criminal justice agency with respect to its own employees or applicants, and

3753 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
 3754 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
 3755 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
 3756 of this subdivision, criminal history record information includes information sent to the Central Criminal
 3757 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
 3758 time employee of the State Police, a police department or sheriff's office that is a part of or administered
 3759 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
 3760 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
 3761 the purposes of the administration of criminal justice;

3762 2. Such other individuals and agencies that require criminal history record information to
 3763 implement a state or federal statute or executive order of the President of the United States or Governor
 3764 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon
 3765 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
 3766 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
 3767 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3768 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
 3769 provide services required for the administration of criminal justice pursuant to that agreement which shall
 3770 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
 3771 security and confidentiality of the data;

3772 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
 3773 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
 3774 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
 3775 security of the data;

3776 5. Agencies of state or federal government that are authorized by state or federal statute or
 3777 executive order of the President of the United States or Governor to conduct investigations determining
 3778 employment suitability or eligibility for security clearances allowing access to classified information;

3779 6. Individuals and agencies where authorized by court order or court rule;

3780 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
 3781 owned, operated or controlled by any political subdivision, and any public service corporation that
 3782 operates a public transit system owned by a local government for the conduct of investigations of
 3783 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
 3784 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
 3785 conviction record would be compatible with the nature of the employment, permit, or license under
 3786 consideration;

3787 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
 3788 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
 3789 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
 3790 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
 3791 with a conviction record would be compatible with the nature of the employment under consideration;

3792 8. Public or private agencies when authorized or required by federal or state law or interstate
 3793 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
 3794 members of that individual's household, with whom the agency is considering placing a child or from
 3795 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
 3796 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
 3797 not be further disseminated to any party other than a federal or state authority or court as may be required
 3798 to comply with an express requirement of law;

3799 9. To the extent permitted by federal law or regulation, public service companies as defined in §
 3800 56-1, for the conduct of investigations of applicants for employment when such employment involves

3801 personal contact with the public or when past criminal conduct of an applicant would be incompatible
3802 with the nature of the employment under consideration;

3803 10. The appropriate authority for purposes of granting citizenship and for purposes of international
3804 travel, including, but not limited to, issuing visas and passports;

3805 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
3806 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
3807 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
3808 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
3809 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
3810 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
3811 program as defined in § 15.2-1713.1;

3812 12. Administrators and board presidents of and applicants for licensure or registration as a child
3813 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3814 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3815 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
3816 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
3817 not be further disseminated by the facility or agency to any party other than the data subject, the
3818 Commissioner of Social Services' representative or a federal or state authority or court as may be required
3819 to comply with an express requirement of law for such further dissemination; however, nothing in this
3820 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
3821 issuing written certifications regarding the results of a background check that was conducted before July
3822 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3823 13. The school boards of the Commonwealth for the purpose of screening individuals who are
3824 offered or who accept public school employment and those current school board employees for whom a
3825 report of arrest has been made pursuant to § 19.2-83.1;

3826 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
3827 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
3828 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
3829 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3830 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
3831 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
3832 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
3833 162.9:1, subject to the limitations set out in subsection E;

3834 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
3835 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
3836 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3837 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
3838 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set
3839 forth in § 4.1-622;

3840 18. The State Board of Elections and authorized officers and employees thereof and general
3841 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
3842 respect to voter registration, limited to any record of felony convictions;

3843 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or
3844 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner
3845 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-
3846 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
3847 treatment, or discharge planning;

3848 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
3849 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
3850 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3851 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
3852 the Department of Education, or the Department of Behavioral Health and Developmental Services for
3853 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
3854 services;

3855 22. The Department of Behavioral Health and Developmental Services and facilities operated by
3856 the Department for the purpose of determining an individual's fitness for employment pursuant to
3857 departmental instructions;

3858 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
3859 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
3860 records information on behalf of such governing boards or administrators pursuant to a written agreement
3861 with the Department of State Police;

3862 24. Public institutions of higher education and nonprofit private institutions of higher education
3863 for the purpose of screening individuals who are offered or accept employment;

3864 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
3865 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
3866 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
3867 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
3868 history record information obtained pursuant to this section or otherwise use any record of an individual
3869 beyond the purpose that such disclosure was made to the threat assessment team;

3870 26. Executive directors of community services boards or the personnel director serving the
3871 community services board for the purpose of determining an individual's fitness for employment, approval
3872 as a sponsored residential service provider, permission to enter into a shared living arrangement with a
3873 person receiving medical assistance services pursuant to a waiver, or permission for any person under
3874 contract with the community services board to serve in a direct care position on behalf of the community
3875 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3876 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
3877 determining an individual's fitness for employment, approval as a sponsored residential service provider,
3878 permission to enter into a shared living arrangement with a person receiving medical assistance services
3879 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
3880 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-
3881 506.1, and 37.2-607;

3882 28. The Commissioner of Social Services for the purpose of locating persons who owe child
3883 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
3884 the name, address, demographics and social security number of the data subject shall be released;

3885 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
3886 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
3887 purpose of determining if any applicant who accepts employment in any direct care position or requests
3888 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
3889 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
3890 under contract with the provider to serve in a direct care position has been convicted of a crime that affects
3891 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
3892 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
3893 37.2-607;

- 3894 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
3895 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
3896 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
- 3897 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
3898 Committee for Courts of Justice for the purpose of determining if any person being considered for election
3899 to any judgeship has been convicted of a crime;
- 3900 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
3901 determining an individual's fitness for employment in positions designated as sensitive under Department
3902 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
- 3903 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
3904 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
3905 Violent Predators Act (§ 37.2-900 et seq.);
- 3906 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
3907 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
3908 companies, for the conduct of investigations of applications for employment or for access to facilities, by
3909 contractors, leased laborers, and other visitors;
- 3910 35. Any employer of individuals whose employment requires that they enter the homes of others,
3911 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
- 3912 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
3913 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
3914 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
3915 subject to the restriction that the data shall not be further disseminated by the agency to any party other
3916 than a federal or state authority or court as may be required to comply with an express requirement of law
3917 for such further dissemination, subject to limitations set out in subsection G;
- 3918 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
3919 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
3920 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
3921 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
3922 administered by the Department of Medical Assistance Services;
- 3923 38. The State Corporation Commission for the purpose of investigating individuals who are current
3924 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
3925 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
3926 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on
3927 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
3928 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
3929 applicant or its designee;
- 3930 39. The Department of Professional and Occupational Regulation for the purpose of investigating
3931 individuals for initial licensure pursuant to § 54.1-2106.1;
- 3932 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
3933 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
3934 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
3935 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
- 3936 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
- 3937 42. The State Treasurer for the purpose of determining whether a person receiving compensation
3938 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
- 3939 43. The Department of Education or its agents or designees for the purpose of screening individuals
3940 seeking to enter into a contract with the Department of Education or its agents or designees for the
3941 provision of child care services for which child care subsidy payments may be provided;

3942 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
 3943 of a juvenile's household when completing a predispositional or postdispositional report required by §
 3944 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3945 45. The State Corporation Commission, for the purpose of screening applicants for insurance
 3946 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3947 46. Administrators and board presidents of and applicants for licensure or registration as a child
 3948 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
 3949 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
 3950 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
 3951 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
 3952 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
 3953 representative, or a federal or state authority or court as may be required to comply with an express
 3954 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
 3955 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
 3956 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
 3957 22.1-289.039;

3958 47. The National Center for Missing and Exploited Children for the purpose of screening
 3959 individuals who are offered or accept employment or will be providing volunteer or contractual services
 3960 with the National Center for Missing and Exploited Children; and

3961 48. Other entities as otherwise provided by law.

3962 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
 3963 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
 3964 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
 3965 designated in the order on whom a report has been made under the provisions of this chapter.

3966 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
 3967 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
 3968 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
 3969 copy of conviction data covering the person named in the request to the person making the request;
 3970 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
 3971 making of such request. A person receiving a copy of his own conviction data may utilize or further
 3972 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
 3973 subject, the person making the request shall be furnished at his cost a certification to that effect.

3974 B. Use of criminal history record information disseminated to noncriminal justice agencies under
 3975 this section shall be limited to the purposes for which it was given and may not be disseminated further,
 3976 except as otherwise provided in subdivision A 46.

3977 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
 3978 history record information for employment or licensing inquiries except as provided by law.

3979 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 3980 Exchange prior to dissemination of any criminal history record information on offenses required to be
 3981 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 3982 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
 3983 time is of the essence and the normal response time of the Exchange would exceed the necessary time
 3984 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
 3985 history record information that is required to be reported to the Central Criminal Records Exchange may
 3986 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
 3987 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
 3988 justice agency maintaining the record as required by § 15.2-1722.

3989 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
3990 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
3991 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3992 F. Criminal history information provided to licensed assisted living facilities and licensed adult
3993 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
3994 for any offense specified in § 63.2-1720.

3995 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
3996 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
3997 of barrier crime in § 19.2-392.02.

3998 H. Upon receipt of a written request from an employer or prospective employer, the Central
3999 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
4000 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
4001 in the request to the employer or prospective employer making the request, provided that the person on
4002 whom the data is being obtained has consented in writing to the making of such request and has presented
4003 a photo-identification to the employer or prospective employer. In the event no conviction data is
4004 maintained on the person named in the request, the requesting employer or prospective employer shall be
4005 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
4006 forms provided by the Exchange.

4007 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
4008 information pursuant to the rules of court for obtaining discovery or for review by the court.

4009 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
4010 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
4011 **dissemination of criminal history record information; prohibited practices by employers,**
4012 **educational institutions, and state and local governments; penalty.**

4013 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor
4014 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged
4015 under ~~§§~~ former § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-
4016 251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or
4017 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as
4018 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of
4019 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article
4020 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to §
4021 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to
4022 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established
4023 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173
4024 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving
4025 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the
4026 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure
4027 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to
4028 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)
4029 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a
4030 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible
4031 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
4032 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the
4033 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time
4034 employee of the State Police or a police department or sheriff's office that is a part of or administered by
4035 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-
4036 time or part-time employment with the State Police or a police department or sheriff's office that is a part

4037 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health
 4038 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with
 4039 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time
 4040 or part-time employee of the Department of Forensic Science for the purpose of screening any person for
 4041 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-
 4042 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety
 4043 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for
 4044 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
 4045 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of
 4046 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as
 4047 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor
 4048 Carrier Safety Administration.

4049 B. An employer or educational institution shall not, in any application, interview, or otherwise,
 4050 require an applicant for employment or admission to disclose information concerning any arrest, criminal
 4051 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
 4052 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
 4053 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
 4054 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or
 4055 conviction is not open for public inspection pursuant to subsection A.

4056 C. Agencies, officials, and employees of the state and local governments shall not, in any
 4057 application, interview, or otherwise, require an applicant for a license, permit, registration, or
 4058 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
 4059 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
 4060 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
 4061 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
 4062 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
 4063 inspection pursuant to subsection A. Such an application may not be denied solely because of the
 4064 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4065 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each
 4066 violation.

4067 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**
 4068 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**
 4069 **dissemination of criminal history record information; prohibited practices by employers,**
 4070 **educational institutions, and state and local governments; penalty.**

4071 A. Criminal history record information contained in the Central Criminal Records Exchange,
 4072 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of
 4073 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under ~~§§~~ former
 4074 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be
 4075 open for public inspection or otherwise disclosed, provided that such records may be disseminated and
 4076 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility
 4077 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in
 4078 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for
 4079 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department
 4080 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision
 4081 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a
 4082 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
 4083 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his
 4084 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an

4085 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time
4086 employee of the Department of Forensic Science for the purpose of screening any person for full-time or
4087 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer
4088 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,
4089 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of
4090 screening any person who applies to be a volunteer with or an employee of an emergency medical services
4091 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of
4092 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.
4093 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety
4094 Administration; (ix) to any employer or prospective employer or its designee where federal law requires
4095 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective
4096 employer or its designee where the position that a person is applying for, or where access to the premises
4097 in or upon which any part of the duties of such position is performed or is to be performed, is subject to
4098 any requirement imposed in the interest of the national security of the United States under any security
4099 program in effect pursuant to or administered under any contract with, or statute or regulation of, the
4100 United States or any Executive Order of the President; (xi) to any person authorized to engage in the
4101 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting
4102 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set
4103 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,
4104 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office
4105 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee
4106 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person
4107 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the
4108 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a
4109 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
4110 employer or prospective employer or its designee that is allowed access to such sealed records in
4111 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
4112 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
4113 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
4114 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,
4115 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
4116 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
4117 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
4118 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
4119 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
4120 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
4121 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)
4122 to the person arrested, charged, or convicted of the offense that was sealed.

4123 B. Except as provided in subsection C, agencies, officials, and employees of state and local
4124 governments, private employers that are not subject to federal laws or regulations in the hiring process,
4125 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for
4126 employment or admission to disclose information concerning any arrest, criminal charge, or conviction
4127 against him when the record relating to such arrest, criminal charge, or conviction is not open for public
4128 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any
4129 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal
4130 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open
4131 for public inspection pursuant to subsection A.

4132 C. The provisions of subsection B shall not apply if:

4133 1. The person is applying for full-time employment or part-time employment with, or to be a
4134 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
4135 by the Commonwealth or any political subdivision thereof;

4136 2. This Code requires the employer to make such an inquiry;

4137 3. Federal law requires the employer to make such an inquiry;

4138 4. The position, or access to the premises in or upon which any part of the duties of such position
4139 is performed or is to be performed, is subject to any requirement imposed in the interest of the national
4140 security of the United States under any security program in effect pursuant to or administered under any
4141 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4142 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
4143 9.1-134 allow the employer to access such sealed records.

4144 D. Agencies, officials, and employees of the state and local governments shall not, in any
4145 application, interview, or otherwise, require an applicant for a license, permit, registration, or
4146 governmental service to disclose information concerning any arrest, criminal charge, or conviction against
4147 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection
4148 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal
4149 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or
4150 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public
4151 inspection pursuant to subsection A. Such an application may not be denied solely because of the
4152 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4153 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,
4154 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal
4155 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction
4156 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4157 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4158 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4159 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
4160 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4161 criminal charge, or conviction.

4162 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as
4163 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,
4164 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not
4165 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question
4166 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning
4167 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or
4168 conviction is not open for public inspection pursuant to subsection A. Such an application may not be
4169 denied solely because of the applicant's refusal to disclose information concerning any such arrest,
4170 criminal charge, or conviction.

4171 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior
4172 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such
4173 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant
4174 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection
4175 A does not have to be disclosed in the application. Such notice need not be included on any application
4176 for one or more of the purposes set forth in subsection C.

4177 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or
4178 conviction that is not open for public inspection pursuant to subsection A or any information from such
4179 records among law-enforcement officers and attorneys when such disclosures are made by such officers
4180 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure

4181 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth
4182 when related to the prosecution of a separate crime.

4183 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for
4184 each violation.

4185 **§ 19.2-392.02. National criminal background checks by businesses and organizations**
4186 **regarding employees or volunteers providing care to children or the elderly or disabled.**

4187 A. For purposes of this section:

4188 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
4189 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
4190 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,
4191 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-
4192 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-
4193 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,
4194 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
4195 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,
4196 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-
4197 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-
4198 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-
4199 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
4200 violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or
4201 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370,
4202 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-
4203 374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405
4204 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-
4205 423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-
4206 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the
4207 laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-
4208 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of
4209 § 4.1-1101, 4.1-1114, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.4~~, 18.2-248.5, 18.2-
4210 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
4211 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250
4212 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §
4213 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
4214 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of
4215 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §
4216 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against
4217 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another
4218 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is
4219 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not
4220 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4221 "Barrier crime information" means the following facts concerning a person who has been arrested
4222 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at
4223 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
4224 description of the barrier crime or offenses for which the person has been arrested or has been convicted,
4225 the disposition of the charge, and any other information that may be useful in identifying persons arrested
4226 for or convicted of a barrier crime.

4227 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
4228 recreation to children or the elderly or disabled.

4229 "Department" means the Department of State Police.

4230 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,
4231 or seeks to volunteer for a qualified entity.

4232 "Identification document" means a document made or issued by or under the authority of the
4233 United States government, a state, a political subdivision of a state, a foreign government, political
4234 subdivision of a foreign government, an international governmental or an international quasi-
4235 governmental organization that, when completed with information concerning a particular individual, is
4236 of a type intended or commonly accepted for the purpose of identification of individuals.

4237 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
4238 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
4239 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
4240 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
4241 operate a qualified entity.

4242 "Qualified entity" means a business or organization that provides care to children or the elderly or
4243 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
4244 pursuant to subdivision A 7 of § 22.1-289.030.

4245 B. A qualified entity may request the Department of State Police to conduct a national criminal
4246 background check on any provider who is employed by such entity. No qualified entity may request a
4247 national criminal background check on a provider until such provider has:

- 4248 1. Been fingerprinted; and
- 4249 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,
4250 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
4251 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
4252 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
4253 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background
4254 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to
4255 challenge the accuracy and completeness of any information contained in any such report, and to obtain a
4256 prompt determination as to the validity of such challenge before a final determination is made by the
4257 Department; and (v) a notice to the provider that prior to the completion of the background check the
4258 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled
4259 for whom the qualified entity provides care.

4260 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
4261 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection
4262 B, the Department shall make a determination whether the provider has been convicted of or is the subject
4263 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime
4264 information, the Department shall access the national criminal history background check system, which
4265 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of
4266 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If
4267 the Department receives a background report lacking disposition data, the Department shall conduct
4268 research in whatever state and local recordkeeping systems are available in order to obtain complete data.
4269 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business
4270 days.

4271 D. Any background check conducted pursuant to this section for a provider employed by a private
4272 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4273 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified
4274 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4275 E. Any background check conducted pursuant to this section for a provider employed by a
4276 governmental entity shall be provided to that entity.

4277 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
 4278 national criminal background check, the Department and the Federal Bureau of Investigation may each
 4279 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
 4280 with the fingerprints.

4281 G. The failure to request a criminal background check pursuant to subsection B shall not be
 4282 considered negligence per se in any civil action.

4283 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing**
 4284 **of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of**
 4285 **former possession of marijuana offenses.**

4286 A. If a person was convicted of a violation of any of the following sections, such conviction,
 4287 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner
 4288 set forth in § 19.2-392.7, subject to the provisions of subsections B and C: § 18.2-96, 18.2-103, 18.2-119,
 4289 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

4290 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be
 4291 ordered to be automatically sealed if seven years have passed since the date of the conviction and the
 4292 person convicted of such offense has not been convicted of violating any law of the Commonwealth that
 4293 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other
 4294 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions
 4295 under Title 46.2, during that time period.

4296 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the
 4297 conviction, the person was convicted of another offense that is not eligible for automatic sealing under
 4298 subsection A.

4299 D. If a person was charged with any criminal offense and such offense concluded with any final
 4300 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed
 4301 in the manner set forth in § 19.2-392.7.

4302 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit
 4303 court pursuant to the provisions of § 19.2-392.12.

4304 **§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**
 4305 **products, and gambling.**

4306 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as
 4307 prescribed by the Board of Education.

4308 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage
 4309 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia
 4310 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide
 4311 educational materials to the Department of Education. The Department of Education shall review and shall
 4312 distribute such materials as are approved to the public schools.

4313 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education
 4314 shall distribute to each local school division educational materials concerning the health and safety risks
 4315 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are
 4316 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,
 4317 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall
 4318 be provided in each public elementary and secondary school in the Commonwealth, consistent with such
 4319 educational materials.

4320 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the
 4321 public schools as prescribed by the Board.

4322 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4323 A. School boards shall expel from school attendance any student whom such school board has
 4324 determined, in accordance with the procedures set forth in this article, to have brought a controlled

4325 substance, or imitation controlled substance, or marijuana as those terms are defined in § 18.2-247 onto
 4326 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,
 4327 or a school board may, however, determine, based on the facts of a particular situation, that special
 4328 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
 4329 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
 4330 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
 4331 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
 4332 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
 4333 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's
 4334 expulsion regardless of the facts of the particular situation.

4335 B. Each school board shall revise its standards of student conduct to incorporate the requirements
 4336 of this section no later than three months after the date on which this act becomes effective.

4337 **§ 23.1-1301. Governing boards; powers.**

4338 A. The board of visitors of each baccalaureate public institution of higher education or its designee
 4339 may:

- 4340 1. Make regulations and policies concerning the institution;
- 4341 2. Manage the funds of the institution and approve an annual budget;
- 4342 3. Appoint the chief executive officer of the institution;
- 4343 4. Appoint professors and fix their salaries; and
- 4344 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4345 B. The governing board of each public institution of higher education or its designee may:

4346 1. In addition to the powers set forth in Restructured Higher Education Financial and
 4347 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real
 4348 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor
 4349 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,
 4350 and administered in the same manner as all other gifts and bequests;

4351 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other
 4352 purposes on any property owned by the institution;

4353 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,
 4354 maintained, or controlled by the institution;

4355 4. Adopt regulations or institution policies for the employment and dismissal of professors,
 4356 teachers, instructors, and other employees;

4357 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition
 4358 to the regulations or institution policies required pursuant to § 23.1-1303;

4359 6. Adopt regulations or institution policies for the conduct of students in attendance and for the
 4360 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide
 4361 by such regulations or policies;

4362 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to
 4363 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)
 4364 the awareness and prevention of sexual crimes committed upon students;

4365 8. Establish guidelines for the initiation or induction of students into any social fraternity or
 4366 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

4367 9. Assign any interest it possesses in intellectual property or in materials in which the institution
 4368 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual
 4369 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for
 4370 transfers of such property (i) developed wholly or predominantly through the use of state general funds,
 4371 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope
 4372 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and

4373 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties
 4374 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit
 4375 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.
 4376 In the event the Governor does not approve such transfer, the materials shall remain the property of the
 4377 respective institutions and may be used and developed in any manner permitted by law;

4378 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through
 4379 electronic communication means pursuant to § 2.2-3708.3; and

4380 11. Adopt a resolution to require the governing body of a locality that is contiguous to the
 4381 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property
 4382 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce
 4383 statutes and local ordinances with respect to offenses occurring on the property of the institution.

4384 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4385 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification
 4386 card, vehicle registration, certificate of title, or other document issued by the Department if such person
 4387 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
 4388 entitled thereto, including obtaining any document issued by the Department through the use of
 4389 counterfeit, forged, or altered documents.

4390 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
 4391 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4392 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
 4393 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
 4394 provisions of subsection A.

4395 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person
 4396 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession
 4397 of any document issued by the Department for the purpose of engaging in any age-limited activity,
 4398 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.
 4399 However, if a person is charged and convicted of any other violation of this section, such offense shall
 4400 constitute a Class 6 felony.

4401 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
 4402 identification card, vehicle registration, certificate of title, or other document issued by the Department
 4403 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
 4404 notice of the cancellation to the address of record maintained by the Department.

4405 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**
 4406 **card to obtain alcoholic beverages; penalties.**

4407 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,
 4408 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United
 4409 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;
 4410 United States Armed Forces identification card; United States passport or foreign government visa;
 4411 Virginia Department of Motor Vehicles special identification card; official identification issued by any
 4412 other federal, state or foreign government agency; or official student identification card of an institution
 4413 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,
 4414 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's
 4415 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

4416 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4417 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court
 4418 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia
 4419 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such
 4420 petition shall be the operator of the establishment has allowed it to become a meeting place for persons

4421 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent
4422 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief
4423 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon
4424 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,
4425 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court
4426 that the threat to public safety complained of exists and is likely to continue if such injunction is not
4427 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.
4428 The respondent shall be served with notice of the time and place of the hearing and copies of all
4429 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the
4430 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of
4431 the injunction has been abated by reason of a change of ownership, management, or business operations
4432 at the establishment, or other change in circumstance.

4433 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4434 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia
4435 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an
4436 investigation into the activities at the establishment complained of and conduct an administrative hearing.
4437 After the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority
4438 hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control
4439 Authority or the Virginia Cannabis Control Authority, regardless of disposition, any injunction issued
4440 hereunder shall be null, without further action by the complainant, respondent, or the court.

4441 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4442 This section shall apply to any person who is not a qualified voter because of a felony conviction,
4443 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
4444 meets the conditions and requirements set out in this section.

4445 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
4446 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-
4447 1101, 4.1-1114, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii)
4448 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which
4449 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for
4450 restoration of his civil right to be eligible to register to vote through the process set out in this section. On
4451 such petition, the court may approve the petition for restoration to the person of his right if the court is
4452 satisfied from the evidence presented that the petitioner has completed, five or more years previously,
4453 service of any sentence and any modification of sentence including probation, parole, and suspension of
4454 sentence; that the petitioner has demonstrated civic responsibility through community or comparable
4455 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for
4456 the same period.

4457 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
4458 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
4459 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date
4460 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary
4461 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for
4462 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the
4463 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated
4464 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the
4465 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a
4466 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the
4467 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

4468 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
4469 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
4470 vote.

4471 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4472 A. Any person shall be regarded as practicing the healing arts who actually engages in such
4473 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces
4474 to the public in any manner a readiness to practice or who uses in connection with his name the words or
4475 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter
4476 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able
4477 to heal, cure or relieve those suffering from any injury, deformity or disease.

4478 Signing a birth or death certificate, or signing any statement certifying that the person so signing
4479 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
4480 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4481 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4482 are required to sign birth certificates.

4483 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4484 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4485 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.
4486 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as
4487 defined in § 18.2-247.54.1-3401, unless such advertisement is for the treatment of addiction or substance
4488 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement
4489 that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to
4490 issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

4491 **§ 54.1-4426. Accounting services for licensed marijuana establishments.**

4492 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as
4493 provided in § 4.1-600.

4494 B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides
4495 accounting services to a licensed marijuana establishment shall not be held liable pursuant to any state
4496 law or regulation solely for providing such accounting services.

4497 C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a
4498 licensed marijuana establishment.

4499 **§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity**
4500 **to Internal Revenue Code.**

4501 A. Any term used in this chapter shall have the same meaning as when used in a comparable
4502 context in the laws of the United States relating to federal income taxes, unless a different meaning is
4503 clearly required.

4504 B. Any reference in this chapter to the laws of the United States relating to federal income taxes
4505 shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other
4506 provisions of the laws of the United States relating to federal income taxes, except for:

4507 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l),
4508 168(m), 1400L, and 1400N of the Internal Revenue Code;

4509 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal
4510 Revenue Code;

4511 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F)
4512 of the Internal Revenue Code;

4513 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income
4514 tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an
4515 "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the

4516 taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless
4517 the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-
4518 taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or
4519 over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable
4520 year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of
4521 the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income
4522 from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

4523 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation
4524 on itemized deductions under § 68(f) of the Internal Revenue Code;

4525 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for
4526 taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income
4527 threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the
4528 deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such
4529 taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed
4530 for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal
4531 adjusted gross income;

4532 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic
4533 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

4534 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act,
4535 P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

4536 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act,
4537 P.L. 116-136 (2020), related to the limitation on business interest;

4538 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),
4539 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the
4540 federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and
4541 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes,
4542 and basis increases for certain loan forgiveness and other business financial assistance; ~~and~~

4543 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would
4544 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the
4545 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall
4546 not apply to any amendment to federal income tax law that is either subsequently adopted by the General
4547 Assembly or a federal tax extender as defined in subdivision b;

4548 12. For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax
4549 deductions for ordinary and necessary expenditures made in connection with carrying on a trade or
4550 business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the
4551 Internal Revenue Code.

4552 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine
4553 die of the previous regular session of the General Assembly and the first day of the subsequent regular
4554 session of the General Assembly if the cumulative projected impact of such amendments would increase
4555 or decrease general fund revenues by greater than \$75 million in the fiscal year in which the amendments
4556 were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply
4557 to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly,
4558 (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the
4559 cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall
4560 be included in the calculation of the \$75 million threshold for purposes of determining whether such
4561 threshold has been met.

4562 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually
4563 based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-

4564 U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor
4565 index for the previous year.

4566 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income
4567 tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the
4568 threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the
4569 expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

4570 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on
4571 Finance and Appropriations and the House Committees on Appropriations and Finance, shall be
4572 responsible for determining whether the criteria of subdivision a are met.

4573 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year
4574 on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of
4575 the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on
4576 Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of
4577 Finance shall also provide updates to the same Chairmen on any further amendments to federal income
4578 tax law occurring between submission of the required report and the first day of the subsequent regular
4579 session of the General Assembly.

4580 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for
4581 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the
4582 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4583 **§ 59.1-200. Prohibited practices.**

4584 A. The following fraudulent acts or practices committed by a supplier in connection with a
4585 consumer transaction are hereby declared unlawful:

4586 1. Misrepresenting goods or services as those of another;
4587 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
4588 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
4589 services, with another;

4590 4. Misrepresenting geographic origin in connection with goods or services;
4591 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,
4592 or benefits;

4593 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or
4594 model;

4595 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
4596 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"
4597 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,
4598 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,
4599 imperfects or "not first class";

4600 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
4601 at the price or upon the terms advertised.

4602 In any action brought under this subdivision, the refusal by any person, or any employee, agent,
4603 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
4604 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall
4605 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods
4606 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount
4607 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer
4608 did in fact have or reasonably expected to have at least such quantity or amount for sale;

4609 9. Making false or misleading statements of fact concerning the reasons for, existence of, or
4610 amounts of price reductions;

4611 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or
4612 parts installed;

4613 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
4614 or bill for merchandise or services previously ordered;

4615 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
4616 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
4617 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
4618 goods or services advertised or offered for sale;

4619 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
4620 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
4621 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or
4622 under federal statutes or regulations;

4623 13a. Failing to provide to a consumer, or failing to use or include in any written document or
4624 material provided to or executed by a consumer, in connection with a consumer transaction any statement,
4625 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.
4626 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection
4627 with the consumer transaction;

4628 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in
4629 connection with a consumer transaction;

4630 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,
4631 3.2-6516, or 3.2-6519 is a violation of this chapter;

4632 16. Failing to disclose all conditions, charges, or fees relating to:

4633 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
4634 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
4635 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
4636 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
4637 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
4638 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for
4639 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the
4640 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund
4641 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not
4642 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for
4643 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested
4644 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the
4645 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or
4646 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4647 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the
4648 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
4649 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of
4650 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the
4651 agreement;

4652 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in
4653 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's
4654 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within
4655 60 days of receiving overpayments. If the credit balance information is incorporated into statements of
4656 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is
4657 required;

- 4658 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
4659 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
4660 agreement;
- 4661 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 4662 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1
4663 et seq.);
- 4664 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1
4665 et seq.);
- 4666 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-
4667 207.17 et seq.);
- 4668 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 4669 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-
4670 424 et seq.);
- 4671 24. Violating any provision of § 54.1-1505;
- 4672 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,
4673 Chapter 17.6 (§ 59.1-207.34 et seq.);
- 4674 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 4675 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 4676 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 4677 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
4678 seq.);
- 4679 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
4680 et seq.);
- 4681 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4682 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4683 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4684 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4685 35. Using the consumer's social security number as the consumer's account number with the
4686 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
4687 with the consumer's social security number;
- 4688 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4689 37. Violating any provision of § 8.01-40.2;
- 4690 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4691 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4692 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4693 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
4694 59.1-525 et seq.);
- 4695 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4696 43. Violating any provision of § 59.1-443.2;
- 4697 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4698 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4699 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4700 47. Violating any provision of § 18.2-239;
- 4701 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4702 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
4703 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
4704 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
4705 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the

- 4706 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
4707 products that are used, secondhand or "seconds";
- 4708 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4709 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4710 52. Violating any provision of § 8.2-317.1;
- 4711 53. Violating subsection A of § 9.1-149.1;
- 4712 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
4713 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
4714 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
4715 which defective drywall has been permanently installed or affixed;
- 4716 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
4717 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
4718 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
4719 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
4720 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4721 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4722 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4723 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 4724 59. Violating any provision of subsection E of § 32.1-126;
- 4725 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
4726 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4727 61. Violating any provision of § 2.2-2001.5;
- 4728 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4729 63. Violating any provision of § 6.2-312;
- 4730 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4731 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4732 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 4733 67. Knowingly violating any provision of § 8.01-27.5;
- 4734 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option
4735 to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
4736 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period
4737 to avoid an obligation to pay for the goods or services;
- 4738 69. Selling or offering for sale any substance intended for human consumption, orally or by
4739 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
4740 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
4741 to turn a compound into a different compound by adding or subtracting molecules to or from the original
4742 compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S.
4743 Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be
4744 construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 4745 70. Selling or offering for sale to a person younger than 21 years of age any substance intended
4746 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
4747 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4748 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
4749 permitted under ~~Chapter 16 Subtitle II~~ (~~§ 4.1-1600~~ 4.1-600 et seq.) of Title 4.1;
- 4750 71. Selling or offering for sale any substance intended for human consumption, orally or by
4751 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
4752 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
4753 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons

4754 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such
4755 substance that constitutes a single serving, and (d) the total percentage and milligrams of
4756 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that
4757 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an~~
4758 ~~independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International~~
4759 ~~Organization of Standardization by a third party accrediting body~~ a licensed marijuana testing facility,
4760 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
4761 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
4762 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
4763 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under
4764 Chapter 16 (~~§ 4.1-1600 et seq.~~) Subtitle II (§ 4.1-600 et seq.) of Title 4.1;

4765 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as
4766 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing
4767 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

4768 73. Selling or offering for sale any substance intended for human consumption, orally or by
4769 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container
4770 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined
4771 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a
4772 manufacturer, processor, packer, or distributor of a product intended for human consumption other than
4773 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or
4774 distribute such substance;

4775 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not
4776 include a label stating that the product is not intended for human consumption. This subdivision shall not
4777 (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
4778 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted
4779 under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were
4780 manufactured prior to July 1, 2023, provided that the person provides documentation of the date of
4781 manufacture if requested;

4782 75. Violating any provision of § 59.1-466.8;

4783 76. Violating subsection F of § 36-96.3:1;

4784 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or
4785 (ii) any kratom product that does not include a label listing all ingredients and with the following guidance:
4786 "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to
4787 diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the
4788 leaf of the plant *Mitragyna speciosa* or any extract thereof; and

4789 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45,
4790 to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale
4791 of any such good or provision of any such continuous service.

4792 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
4793 lease solely by reason of the failure of such contract or lease to comply with any other law of the
4794 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
4795 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such
4796 contract or lease.

4797 **2. That §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia are repealed.**

4798 **3. That the following provisions shall become effective on May 1, 2025: (i) §§ 3.2-4113, 4.1-1121, 4.1-**
4799 **1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251,**
4800 **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-**
4801 **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, 18.2-308.4,**

4802 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-389.3, as
4803 it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08, 46.2-
4804 105.2, 46.2-347, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia, as amended by this act;
4805 (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119,
4806 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of the Code of Virginia, as created by this act;
4807 and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as repealed by
4808 this act.

4809 4. That the Virginia Cannabis Control Authority (the Authority) may, on and after September 1,
4810 2024, begin accepting license applications from all applicants, including pharmaceutical processors
4811 and cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of
4812 Title 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with
4813 the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et
4814 seq.) of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-
4815 1000 of the Code of Virginia, as created by this act. Notwithstanding the third enactment of this act,
4816 any applicant issued a license by the Authority may operate in accordance with the provisions of
4817 this act prior to May 1, 2025; however, prior to May 1, 2025, no licensee may engage in the retail
4818 sale of marijuana, marijuana products, immature marijuana plants, or marijuana seeds. Notwithstanding any other provision of law, on or after September 1, 2024, and prior to May 1,
4819 2025, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana
4820 transporter licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent
4821 or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-
4822 1100 et seq.) of Title 4.1 of the Code of Virginia or § 18.2-248, 18.2-248.01, 18.2-255, 18.2-255.1, 18.2-
4823 255.2, 18.2-258, 18.2-258.02, 18.2-265.3, or 18.2-308.4 of the Code of Virginia, as amended by this
4824 act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such
4825 violation is related to acts committed within the scope of the licensure or employment and in
4826 accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of
4827 Virginia) and this enactment. From September 1, 2024, to September 1, 2029, the Authority shall
4828 reserve license slots for all pharmaceutical processors and cannabis dispensing facilities that have
4829 been issued a permit by the Board of Directors (the Board) of the Authority pursuant to Chapter
4830 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and issue applicable licenses for any
4831 location for which such a permit has been issued, provided the applicable licensing requirements
4832 are met. The Board shall not permit any marijuana cultivation facility licensee to engage in the
4833 outdoor growth of marijuana plants until the Board has promulgated regulations governing
4834 outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act. Priority for
4835 tier IV and tier V marijuana cultivation facility licenses shall be given to pharmaceutical processors
4836 that have been issued a permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1
4837 of the Code of Virginia and no less than five industrial hemp processors or growers that are
4838 registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1
4839 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to
4840 January 1, 2021.

4842 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-
4843 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4844 6. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits
4845 should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze
4846 and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility
4847 licensees, and (iii) report its finding to the General Assembly by November 1, 2025. The Authority
4848 shall continue such analysis and submit updated findings to the General Assembly for two years
4849 after such initial report prior to November 1 during the two subsequent years.

- 4850 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall
4851 promulgate regulations to implement the provisions of this act by December 31, 2024. With the
4852 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process
4853 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant
4854 thereto shall apply to the Board's initial adoption of such regulations.
- 4855 8. That, from July 1, 2024, to July 1, 2025, the Virginia Cannabis Control Authority (the Authority)
4856 shall deposit all funds collected through marijuana establishment annual license fees into the
4857 Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as
4858 amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such
4859 license fees.
- 4860 9. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this
4861 act, on the question of whether the operation of retail marijuana stores shall be prohibited in a
4862 particular locality shall be held and results certified by December 31, 2024. A referendum on such
4863 question shall not be permitted in a locality after January 1, 2025, unless such referendum follows
4864 a referendum held prior to December 31, 2024, and any subsequent referendum, in which a majority
4865 of the qualified voters voting in such referendum voted "Yes" to prohibit the operation of retail
4866 marijuana stores.
- 4867 10. That the provisions of this act may result in a net increase in periods of imprisonment or
4868 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
4869 appropriation is _____ for periods of imprisonment in state adult correctional facilities;
4870 therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia
4871 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-
4872 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for
4873 periods of commitment to the custody of the Department of Juvenile Justice.
- 4874 #