

SENATE BILL NO. 448

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on January 31, 2024)

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

A BILL to amend and reenact §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

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

26 1. That §§ 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-611, 4.1-614, 4.1-621, 4.1-  
 27 1100, 4.1-1101, 4.1-1121, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-  
 28 278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2,  
 29 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1,  
 30 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66,  
 31 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389,  
 32 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-  
 33 206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-  
 34 200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended  
 35 by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in  
 36 Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-  
 37 1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-  
 38 1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12,  
 39 consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1  
 40 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312, by adding in Chapter 14 of  
 41 Title 4.1 sections numbered 4.1-1403 through 4.1-1406, and by adding in Article 2 of Chapter 1 of  
 42 Title 6.2 a section numbered 6.2-108 as follows:

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

44       A. It is lawful for a grower, his agent, or a federally licensed hemp producer to grow, a handler or  
 45 his agent to handle, or a processor or his agent to process industrial hemp in the Commonwealth for any  
 46 lawful purpose. No federally licensed hemp producer or grower or his agent shall be prosecuted under  
 47 Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250  
 48 for the possession or growing of industrial hemp or any Cannabis sativa with a tetrahydrocannabinol  
 49 concentration that does not exceed the total tetrahydrocannabinol concentration percentage established in  
 50 federal regulations applicable to negligent violations located at 7 C.F.R. § 990.6(b)(3). No handler or his  
 51 agent or processor or his agent shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §  
 52 ~~18.2-247~~, 18.2-248, 18.2-248.01, ~~18.2-248.1~~, or 18.2-250 or issued a summons or judgment for the

53 possession, handling, or processing of industrial hemp. In any complaint, information, or indictment, and  
54 in any action or proceeding brought for the enforcement of any provision of Chapter 11 (§ 4.1-1100 et  
55 seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or the Drug Control Act (§ 54.1-  
56 3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained  
57 in this article or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or  
58 exemption shall be on the defendant.

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

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

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

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

75 **§ 4.1-600. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

133 ~~"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture,~~  
134 ~~label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail~~  
135 ~~marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer~~  
136 ~~possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail~~  
137 ~~marijuana stores, or other marijuana manufacturing facilities.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

282 The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

414 **§ 4.1-606. Regulations of the Board.**

415 A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the  
416 general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and  
417 to prevent the illegal cultivation, ~~manufacture~~ processing, transportation, distribution, sale, and testing of  
418 marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations  
419 shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-  
420 4000 et seq.) and shall have the effect of law.

421 B. The Board shall promulgate regulations that:

- 422 1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee,  
423 including security requirements to include lighting, physical security, and alarm requirements, provided  
424 that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;
- 425 2. Establish requirements for securely transporting marijuana between marijuana establishments;
- 426 3. Establish sanitary standards for ~~retail~~ marijuana product preparation;
- 427 4. Establish a testing program for ~~retail~~ marijuana and ~~retail~~ marijuana products pursuant to  
428 Chapter 14 (§ 4.1-1400 et seq.);
- 429 5. Establish an application process for licensure as a marijuana establishment pursuant to this  
430 subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged  
431 communities;
- 432 6. Establish requirements for health and safety warning labels to be placed on ~~retail~~ marijuana and  
433 ~~retail~~ marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with the  
434 provisions of this subtitle;
- 435 7. Establish a maximum tetrahydrocannabinol level for ~~retail~~ marijuana products, which shall not  
436 exceed (i) ~~five~~ 10 milligrams per serving for edible marijuana products and where practicable an  
437 equivalent amount for other marijuana products or (ii) ~~50~~ 100 milligrams per package for edible marijuana  
438 products and where practicable an equivalent amount for other marijuana products. Such regulations may  
439 include other product and dispensing limitations on tetrahydrocannabinol;
- 440 8. Establish requirements for the form, content, and retention of all records and accounts by all  
441 licensees;
- 442 9. Provide alternative methods for licensees to maintain and store business records that are subject  
443 to Board inspection, including methods for Board-approved electronic and offsite storage;
- 444 10. Establish (i) criteria by which to evaluate new licensees based on the density of ~~retail~~ marijuana  
445 stores in the community and (ii) metrics that have similarly shown an association with negative  
446 community-level health outcomes or health disparities. In promulgating such regulations, the Board shall  
447 coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

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

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

453 13. Establish criteria by which to ~~evaluate social equity~~ identify license applicants, ~~which shall be~~  
454 ~~an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either~~  
455 ~~(i) an applicant with~~ that have at least 66 percent ownership by a person or persons who ~~have been~~  
456 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~  
457 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent~~  
458 ~~ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been~~  
459 ~~convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-~~  
460 ~~250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent~~  
461 ~~ownership by a person or persons who have~~ (i) have resided for at least three of the past five years in a  
462 jurisdiction that is determined by the Board after utilizing census tract data made available by the United  
463 States Census Bureau to have been disproportionately policed for marijuana crimes; ~~(iv) an applicant with~~  
464 ~~at least 66 percent ownership by a person or persons who have resided for at least three of the last five~~  
465 ~~years in a jurisdiction determined by the Board after utilizing census tract data made available by the~~  
466 ~~United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent~~  
467 ~~ownership by a person or persons who graduated from a historically black~~ historically economically  
468 disadvantaged community; (ii) have attended for at least five years a public elementary or secondary  
469 school located in a historically economically disadvantaged community; (iii) have received a federal Pell  
470 Grant or attended for at least two years a college or university located in the Commonwealth at which at  
471 least 30 percent of the students, on average, are eligible for a federal Pell Grant; (iv) are a veteran of the  
472 armed forces of the United States and were discharged or released under conditions other than  
473 dishonorable; or (v) are an industrial hemp processor or grower that is registered with the Commissioner

474 of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 and  
475 completed such registration prior to January 1, 2021;

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

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

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

486 ~~17-15. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail~~  
487 ~~marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such~~  
488 ~~advertising displaces the illicit market and notifies the public of the location of marijuana establishments.~~  
489 ~~Such regulations shall be promulgated in accordance with § 4.1-1404; and~~

490 ~~18-16. Establish restrictions on the number of licenses that a person may be granted to operate a~~  
491 ~~marijuana establishment in single locality or region; and~~

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

497 C. The Board may promulgate regulations that:

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

500 a. Retail marijuana stores, 400;

- 501 b. ~~Marijuana wholesalers~~ transporters, 25 50;
- 502 c. ~~Marijuana manufacturing~~ processing facilities, 60; ~~and~~
- 503 d. ~~Marijuana cultivation~~ facilities, 450; and
- 504 e. Marijuana testing facilities, the maximum number of licenses permitted under Board regulations.

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

510 2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ § 4.1-  
511 1003 ~~and 4.1 1004~~, including method of filing a return, information required on a return, and form of  
512 payment.

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

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

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

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

523 F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any  
524 regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6,  
525 7, 10, or ~~16~~ 14, and shall not promulgate any such regulation that has not been approved by a majority of  
526 the members of the Cannabis Public Health Advisory Council.

527 G. With regard to regulations governing licensees that have been issued a permit by the Board of  
 528 Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to ~~Article 4.2~~  
 529 ~~(§ 54.1-3442.5 et seq.) of the Drug Control Act Chapter 16 (§ 4.1-1600 et seq.)~~, the Board shall make  
 530 reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board  
 531 of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and  
 532 cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated  
 533 pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been  
 534 found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more  
 535 extensive in scope than similar regulations promulgated pursuant to this subtitle.

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

537 **§ 4.1-611. Seed-to-sale tracking system.**

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

542 **§ 4.1-614. Disposition of moneys collected by the Board.**

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

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

551 B. The net profits derived under the provisions of this subtitle shall be transferred by the  
 552 Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each  
 553 quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may

554 deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of  
 555 \$2.5 million in connection with the administration of this subtitle and to provide for the depreciation on  
 556 the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the  
 557 Authority's expenses as provided in subsection A, net profits shall be appropriated in the general  
 558 appropriation act as follows:

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

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

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

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

587 **§ 4.1-621. Certain information not to be made public.**

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

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

604 **§ 4.1-629. Local referendum on prohibition of retail marijuana stores.**

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

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

612 The question on the ballot shall be:

613 "Shall the operation of retail marijuana stores be prohibited in \_\_\_\_\_ (name of county, city,  
614 or town)?"

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

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

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

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

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

639 **§ 4.1-630. Local ordinances or resolutions regulating marijuana or marijuana products.**

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

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

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

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

655 **§ 4.1-631. Local ordinances regulating time of sale of marijuana and marijuana products.**

656 The governing body of each county may adopt ordinances effective in that portion of such county  
657 not embraced within the corporate limits of any incorporated town, and the governing body of each city  
658 and town may adopt ordinances effective in such city or town, fixing hours during which marijuana and  
659 marijuana products may be sold. Such governing bodies shall provide for fines and other penalties for

660 violations of any such ordinances, which shall be enforced as if the violations were Class 1 misdemeanors  
661 with a right of appeal pursuant to § 16.1-106.

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

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

666 CHAPTER 7.

667 ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

668 **§ 4.1-700. Exemptions from licensure.**

669 The licensure requirements of this subtitle shall not apply to (i) a cannabis dispensing facility or  
670 pharmaceutical processor that has been issued a permit by the Board and is acting in accordance with the  
671 provisions of Chapter 16 (§ 4.1-1600 et seq.); (ii) a handler, grower, or processor of industrial hemp that  
672 is registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§  
673 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  
674 has been issued a regulated hemp product retail facility registration and is acting in accordance with the  
675 provisions of Title 3.2; (iv) a manufacturer of an edible hemp product operating in accordance with Article  
676 5 (§ 3.2-5145.1 et seq.) of Chapter 51 of Title 3.2; or (v) a person who cultivates marijuana at home for  
677 personal use pursuant to § 4.1-1101. Nothing in this subtitle shall be construed to (a) prevent any person  
678 described in clauses (i) through (iv) from obtaining a license pursuant to this subtitle, provided such person  
679 satisfies applicable licensing requirements; (b) prevent a licensee from acquiring hemp products from an  
680 industrial hemp processor in accordance with the provisions of Chapter 41.1 (§ 3.2-4112 et seq.) of Title  
681 3.2; or (c) prevent a cultivation, processing, transporter, or retail licensee from operating on the licensed  
682 premises a pharmaceutical processing facility in accordance with Chapter 16 (§ 4.1-1600 et seq.) or an  
683 industrial hemp processing facility in accordance with Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

684 **§ 4.1-701. To whom privileges conferred by licenses extend; liability for violations of law.**

685 The privilege of any licensee to cultivate, process, transport, sell, or test marijuana or marijuana  
686 products shall extend to such licensee and to all agents or employees of such licensee for the purpose of

687 operating under such license. The licensee may be held liable for any violation of this subtitle or any Board  
688 regulation committed by such agents or employees in connection with their employment.

689 **§ 4.1-702. Separate license for each place of business; transfer or amendment; posting;**  
690 **expiration; civil penalties.**

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

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

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

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

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

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

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

711 1. The required license fee covering the continuation or reissuance of his license by midnight of  
712 the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable,  
713 to pay the fee in lieu of posting and publishing notice and reapplying, provided payment of the fee is made

714 within 30 days following that date and is accompanied by a civil penalty of \$25 or 10 percent of such fee,  
715 whichever is greater; and

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

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

721 **§ 4.1-703. Records of licensees; inspection of records and places of business.**

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

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

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

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

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

745 For the purposes of a Board inspection of the records of any retail marijuana store licensees,  
746 "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not  
747 open to the public substantially during the same hours, "reasonable hours" means the business hours when  
748 the licensee is open to the public. At any other time of day, if the retail marijuana store licensee's records  
749 are not available for inspection, the licensee shall provide the records to a special agent of the Board within  
750 24 hours after a request is made to inspect the records.

751 CHAPTER 8.

752 ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

753 **§ 4.1-800. Marijuana cultivation facility license.**

754 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall  
755 authorize the licensee to cultivate, label, and package marijuana; to purchase or take possession of  
756 marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell  
757 marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer  
758 possession of marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to  
759 transfer possession of and sell marijuana, marijuana plants, and marijuana seeds to other marijuana  
760 cultivation facilities; and to transfer possession of and sell marijuana to marijuana processing facilities:

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

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

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

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

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

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

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

781 **§ 4.1-801. Marijuana processing facility license.**

782 A. The Board may issue marijuana processing facility licenses, which shall authorize the licensee  
783 to process, label, and package marijuana and marijuana products; to purchase or take possession of  
784 marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer  
785 possession of and sell marijuana and marijuana products to retail marijuana stores or other marijuana  
786 processing facilities; and to transfer possession of marijuana and marijuana products to marijuana  
787 transporters.

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

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

798 **§ 4.1-802. Retail marijuana store license.**

799 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to  
800 purchase or take possession of marijuana, marijuana products, immature marijuana plants, or marijuana  
801 seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of  
802 marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana  
803 transporter; and to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds to  
804 consumers on premises approved by the Board.

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

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

807 2. A retail marijuana store shall be permitted to sell marijuana, marijuana products, immature  
808 marijuana plants, or marijuana seeds to consumers only in a direct, face-to-face exchange. Such store shall  
809 not be permitted to sell marijuana, marijuana products, immature marijuana plants, or marijuana seeds  
810 using:

811 a. An automated dispensing or vending machine;

812 b. A drive-through sales window;

813 c. An Internet-based sales platform; or

814 d. A delivery service.

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

818 4. A retail marijuana store shall not:

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

820 or

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

825 5. In accordance with the requirements of § 4.1-611, a retail marijuana store licensee shall track  
826 all marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which  
827 the marijuana, marijuana products, immature marijuana plants, or marijuana seeds are delivered or  
828 transferred to the retail marijuana store to the point at which the marijuana, marijuana products, immature  
829 marijuana plants, or marijuana seeds are sold to a consumer, delivered or transferred to a marijuana testing  
830 facility, or disposed of or destroyed.

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

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

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

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

842 F. Any retail marijuana store license granted to a pharmaceutical processor that has been issued a  
843 permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) shall authorize the licensee to exercise  
844 any privileges set forth in subsection A at the place of business designated in the license, which,  
845 notwithstanding subsection A of § 4.1-702, may include, upon request by the licensee, up to five additional

846 retail establishments of the licensee. Such additional retail establishments shall be located at the five  
847 cannabis dispensing facilities for which the Board has issued a permit pursuant to Chapter 16 (§ 4.1-1600  
848 et seq.) in the health service area in which the pharmaceutical processing facility is located.

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

852 **§ 4.1-803. Marijuana transporter license.**

853 A. The Board may issue marijuana transporter licenses, which shall authorize the licensee to take  
854 possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a  
855 marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, or another  
856 marijuana transporter; to transfer possession of marijuana, marijuana products, immature marijuana  
857 plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail  
858 marijuana store, or another marijuana transporter; and to transport marijuana, marijuana products,  
859 immature marijuana plants, and marijuana seeds from one licensed establishment to another.

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

863 C. In accordance with the requirements of § 4.1-611, a marijuana transporter licensee shall track  
864 the marijuana, marijuana products, immature marijuana plants, or marijuana seeds from the point at which  
865 the marijuana, marijuana products, plants, or seeds are delivered or transferred to the marijuana transporter  
866 to the point at which the marijuana, marijuana products, plants, or seeds are transferred to a marijuana  
867 processor, marijuana transporter, retail marijuana store, or marijuana testing facility or are disposed of or  
868 destroyed.

869 **§ 4.1-804. Marijuana testing facility license.**

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

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

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

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

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

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

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

891 **§ 4.1-805. Multiple licenses awarded to one person; limitations.**

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

895 B. A person may possess or hold interest in one or any combination of the following licenses  
896 pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation  
897 facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license,  
898 marijuana processing facility license, marijuana transporter license, or retail marijuana store license.

899 Board regulations shall be drawn narrowly to limit vertical integration to small businesses and ensure that  
900 all licensees have an equal and meaningful opportunity to participate in the market. Moreover, (i) no  
901 person shall be granted or hold interest in more than five total licenses, not including marijuana transporter  
902 licenses, issued pursuant to this subtitle and (ii) no person that has been granted or holds interest in a  
903 marijuana cultivation facility license, marijuana processing facility license, marijuana transporter license,  
904 or retail marijuana store license shall be issued or hold interest in a marijuana testing facility license.

905 **§ 4.1-806. Temporary permits required in certain instances.**

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

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

919 **§ 4.1-807. Licensee shall maintain possession of premises.**

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

925 **§ 4.1-808. Conditions under which the Board shall or may refuse to grant licenses.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

961 2. The applicant is a member or employee of the Board or is a corporation or other business entity  
962 in which a member or employee of the Board is a stockholder or has any other economic interest.  
963 Whenever any other elected or appointed official of the Commonwealth or any political subdivision  
964 thereof applies for such a license or continuance thereof, he shall state on the application the official  
965 position he holds, and whenever a corporation or other business entity in which any such official is a  
966 stockholder or has any other economic interest applies for such a license, it shall state on the application  
967 the full economic interests of each such official in such corporation or other business entity.

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

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

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

975 c. When the applicant is applying for a retail marijuana store license, is so located with respect to  
976 any place of religious worship; hospital; public, private, or parochial school or institution of higher  
977 education; public or private playground or other similar recreational facility; child day program; substance  
978 use disorder treatment facility; or federal, state, or local government-operated facility that the operation

979 of such place under such license will adversely affect or interfere with the normal, orderly conduct of the  
980 affairs of such facilities, programs, or institutions;

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

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

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

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

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

995 4. The number of licenses existing in the locality is such that the granting of a license is detrimental  
996 to the interest, morals, safety, or welfare of the public. In reaching such conclusion, the Board shall  
997 consider (i) the criteria established by the Board to evaluate new licensees based on the density of retail  
998 marijuana stores in the community; (ii) the character of, population of, number of similar licenses, and  
999 number of all licenses existent in the particular county, city, or town and the immediate neighborhood  
1000 concerned; (iii) the effect that a new license may have on such county, city, town, or neighborhood in  
1001 conforming with the purposes of this subtitle; and (iv) the objections, if any, that may have been filed by  
1002 a local governing body or local residents.

1003 5. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any  
1004 political subdivision thereof that warrants refusal by the Board to grant any license.

1005 6. The Board is not authorized under this subtitle to grant such license.

1006 **§ 4.1-809. Notice and hearings for refusal to grant licenses; Administrative Process Act;**  
1007 **exceptions.**

1008 A. The action of the Board in granting or in refusing to grant any license shall be subject to judicial  
1009 review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in  
1010 subsection B or C. Such review shall extend to the entire evidential record of the proceedings provided by  
1011 the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals  
1012 from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court  
1013 shall not be suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals.  
1014 Neither mandamus nor injunction shall lie in any such case.

1015 B. The Board may refuse a hearing on any application for the granting of any retail marijuana store  
1016 license, provided that such:

1017 1. License for the applicant has been refused or revoked within a period of 12 months;  
1018 2. License for any premises has been refused or revoked at that location within a period of 12  
1019 months; or

1020 3. Applicant, within a period of 12 months immediately preceding, has permitted a license granted  
1021 by the Board to expire for nonpayment of license fee, and at the time of expiration of such license, there  
1022 was a pending and unadjudicated charge, either before the Board or in any court, against the licensee  
1023 alleging a violation of this subtitle.

1024 C. If an applicant has permitted a license to expire for nonpayment of license fee, and at the time  
1025 of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,  
1026 the Board may refuse a hearing on an application for a new license until after the date on which the  
1027 suspension period would have been executed had the license not been permitted to expire.

1028 CHAPTER 9.

1029 ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

1030 **§ 4.1-900. Grounds for which Board may suspend or revoke licenses.**

1031 A. The Board may suspend or revoke any license if it has reasonable cause to believe that:

1032 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is  
1033 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the  
1034 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital  
1035 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10  
1036 percent or more of the membership interest of the limited liability company:

1037 a. Has misrepresented a material fact in applying to the Board for such license;

1038 b. Within the five years immediately preceding the date of the hearing held in accordance with §  
1039 4.1-903, has (i) violated any provision of Chapter 11 (§ 4.1-1100 et seq.), Chapter 12 (§ 4.1-1200 et seq.),  
1040 or Chapter 13 (§ 4.1-1300 et seq.); (ii) committed a violation of this subtitle in bad faith; (iii) violated or  
1041 failed or refused to comply with any regulation, rule, or order of the Board; or (iv) failed or refused to  
1042 comply with any of the conditions or restrictions of the license granted by the Board;

1043 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude  
1044 under the laws of any state or of the United States;

1045 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or  
1046 other persons have ownership interests in the business that have not been disclosed;

1047 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business  
1048 conducted under the license granted by the Board;

1049 f. Has been intoxicated or under the influence of some self-administered drug while upon the  
1050 licensed premises;

1051 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to  
1052 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or  
1053 persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

1054 h. Has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon  
1055 such licensed premises;

1056 i. Has allowed any person to consume upon the licensed premises any marijuana or marijuana  
1057 product except as provided under this subtitle;

1058 j. Is physically unable to carry on the business conducted under such license or has been  
1059 adjudicated incapacitated;

1060 k. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

1061 l. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has  
1062 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or  
1063 use, controlled substances, imitation controlled substances, drug paraphernalia, or controlled  
1064 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)  
1065 of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation  
1066 of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of  
1067 Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision l shall also apply to  
1068 any conduct related to the operation of the licensed business that facilitates the commission of any of the  
1069 offenses set forth herein;

1070 m. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises  
1071 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion  
1072 of public property immediately adjacent to the licensed premises from becoming a place where patrons of  
1073 the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§  
1074 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  
1075 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.)  
1076 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  
1077 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  
1078 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing  
1079 threat to the public safety;

1080 n. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious  
1081 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises  
1082 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion  
1083 of public property immediately adjacent to the licensed premises; or

1084 o. Has been sanctioned by the Board pursuant to § 54.1-3316 and regulations promulgated by the  
1085 Board for a violation pursuant to Chapter 16 (§ 4.1-1600 et seq.).

1086 2. The place occupied by the licensee:

1087 a. Does not conform to the requirements of the governing body of the county, city, or town in  
1088 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to  
1089 any similar requirements established by the laws of the Commonwealth or by Board regulations;

1090 b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

1091 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,  
1092 drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs  
1093 are regularly used or distributed. The Board may consider the general reputation in the community of such  
1094 establishment in addition to any other competent evidence in making such determination.

1095 3. The licensee or any employee of the licensee discriminated against any member of the Armed  
1096 Forces of the United States by prices charged or otherwise.

1097 4. Any cause exists for which the Board would have been entitled to refuse to grant such license  
1098 had the facts been known.

1099 5. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any  
1100 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located,  
1101 as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i)  
1102 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction  
1103 or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment  
1104 plan approved by the same locality to settle the outstanding liability.

1105 6. The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions  
1106 of its agents or employees constituting a pattern or practice of employing unauthorized aliens on the  
1107 licensed premises in the Commonwealth.

1108 7. Any other cause authorized by this subtitle.

1109 B. The Board shall promulgate regulations regarding suspension and revocation standards and  
1110 protocols.

1111 **§ 4.1-901. Summary suspension in emergency circumstances; grounds; notice and hearing.**

1112 A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the  
1113 Administrative Process Act or § 4.1-806 or 4.1-903, the Board may summarily suspend any license or  
1114 permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily  
1115 injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises  
1116 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion  
1117 of public property immediately adjacent to the licensed premises, and the Board finds that there exists a  
1118 continuing threat to public safety and that summary suspension of the license or permit is justified to  
1119 protect the health, safety, or welfare of the public.

1120 B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall  
1121 conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of  
1122 any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the  
1123 licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation.  
1124 Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period,  
1125 the licensee may petition the Board for a restricted license pending the results of the formal investigation  
1126 and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the  
1127 Board shall have discretion to impose appropriate restrictions based on the facts presented.

1128 C. Upon a determination to temporarily suspend a license, the Board shall immediately commence  
1129 a formal investigation. The formal investigation shall be completed within 10 days of its commencement  
1130 and the findings reported immediately to the Secretary of the Board. If, following the formal investigation,  
1131 the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held  
1132 within five days of the completion of the formal investigation. A decision shall be rendered within 10 days  
1133 of the conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the  
1134 hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee  
1135 shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The  
1136 Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

1137 D. Service of any order of suspension issued pursuant to this section shall be made by a special  
1138 agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect  
1139 immediately upon service.

1140 E. This section shall not apply to temporary permits granted under § 4.1-806.

1141 **§ 4.1-902. Grounds for which Board shall suspend or revoke licenses.**

1142 The Board shall suspend or revoke any license if it finds that:

1143 1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession  
1144 of a gambling device, upon the premises for which the Board has granted a retail marijuana store license.

1145 2. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local  
1146 government or governmental agency or authority, by making or filing any report, document, or tax return  
1147 required by statute or regulation that is fraudulent or contains a willful or knowing false representation of  
1148 a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local  
1149 government or governmental agency or authority, by making or maintaining business records required by  
1150 statute or regulation that are false or fraudulent.

1151 **§ 4.1-903. Suspension or revocation of licenses; notice and hearings; imposition of civil**  
1152 **penalties.**

1153 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or  
1154 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
1155 Administrative Process Act (§ 2.2-4000 et seq.).

1156 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the  
1157 licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made  
1158 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous  
1159 or present employee of the licensee to any law-enforcement officer, the existence of which is known by  
1160 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this  
1161 subtitle against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or  
1162 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and  
1163 upon which the Board intends to rely as evidence in any adversarial proceeding under this subtitle against

1164 the licensee. In addition, any subpoena for the production of documents issued to any person at the request  
1165 of the licensee or the Board pursuant to § 4.1-604 shall provide for the production of the documents sought  
1166 within 10 working days, notwithstanding anything to the contrary in § 4.1-604.

1167 If the Board fails to provide for inspection or copying under this section for the licensee after a  
1168 written request, the Board shall be prohibited from introducing into evidence any items the licensee would  
1169 have lawfully been entitled to inspect or copy under this section.

1170 The action of the Board in suspending or revoking any license or in imposing a civil penalty shall  
1171 be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such  
1172 review shall extend to the entire evidential record of the proceedings provided by the Board in accordance  
1173 with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the  
1174 court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be  
1175 suspended, stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither  
1176 mandamus nor injunction shall lie in any such case.

1177 B. In suspending any license, the Board may impose, as a condition precedent to the removal of  
1178 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board  
1179 in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose  
1180 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty  
1181 exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the  
1182 violation or \$5,000 for the second or subsequent violation occurring within five years immediately  
1183 preceding the date of the second or subsequent violation. However, if the violation involved selling  
1184 marijuana or marijuana products to a person prohibited from purchasing marijuana or marijuana products  
1185 or allowing consumption of marijuana or marijuana products, the Board may impose a civil penalty not to  
1186 exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the  
1187 violation and \$6,000 for a second or subsequent violation occurring within five years immediately  
1188 preceding the date of the second or subsequent violation in lieu of such suspension or any portion thereof,  
1189 or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board

1190 not exceeding \$25,000 in investigating the licensee and in holding the proceeding resulting in the violation  
1191 in addition to any suspension or civil penalty incurred.

1192 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation  
1193 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a  
1194 consent agreement as authorized in § 4.1-604. The notice shall advise the licensee or applicant of the  
1195 option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing  
1196 or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed  
1197 restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges  
1198 within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of  
1199 the suspension as applicable, or (4) proceed to a hearing.

1200 D. The Board shall, by regulation or written order:

1201 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an  
1202 initial hearing;

1203 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu  
1204 of suspension may be accepted for a first offense occurring within three years immediately preceding the  
1205 date of the violation;

1206 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any  
1207 civil penalty for any retail marijuana store licensee where the licensee can demonstrate that it provided to  
1208 its employees marijuana seller training certified in advance by the Board;

1209 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a  
1210 license and the civil charge acceptable in lieu of such suspension; and

1211 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the  
1212 licensee has had no prior violations within five years immediately preceding the date of the violation. No  
1213 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this  
1214 subtitle or Board regulations.

1215 **§ 4.1-904. Suspension or revocation; disposition of marijuana or marijuana products on**  
1216 **hand; termination.**

1217 A. Marijuana or marijuana products owned by or in the possession of or for sale by any licensee  
1218 at the time the license of such person is suspended or revoked may be disposed of as follows:

1219 1. Sold to persons in the Commonwealth licensed to sell such marijuana or marijuana products  
1220 upon permits granted by the Board in accordance with § 4.1-806 and conditions specified by the Board;  
1221 or

1222 2. Destroyed by the Board or its designee.

1223 B. All marijuana or marijuana products owned by or in the possession of any person whose license  
1224 is suspended or revoked shall be disposed of by such person in accordance with the provisions of this  
1225 section within 60 days from the date of such suspension or revocation.

1226 C. Marijuana or marijuana products owned by or in the possession of or for sale by persons whose  
1227 licenses have been terminated other than by suspension or revocation may be disposed of in accordance  
1228 with subsection A within such time as the Board deems proper. Such period shall not be less than 60 days.

1229 D. All marijuana or marijuana products owned by or remaining in the possession of any person  
1230 described in subsection A or C after the expiration of such period shall be deemed contraband and forfeited  
1231 to the Commonwealth in accordance with the provisions of § 4.1-1304.

1232 CHAPTER 10.

1233 ADMINISTRATION OF LICENSES; APPLICATIONS FOR LICENSES; FEES; TAXES.

1234 **§ 4.1-1000. Applications for licenses; publication; notice to localities; fees; permits.**

1235 A. Every person intending to apply for any license authorized by this subtitle shall file with the  
1236 Board an application on forms provided by the Board and a statement in writing by the applicant swearing  
1237 and affirming that all of the information contained therein is true.

1238 B. Such applications shall include any information necessary for the Board to determine whether  
1239 the applicant meets the criteria set forth in subdivision B 13 of § 4.1-606, which the Board may consider,  
1240 along with other relevant factors, when determining whether to grant the application.

1241 C. Applicants for licenses for establishments that are otherwise required to obtain an inspection by  
1242 the Department of Agriculture and Consumer Services shall provide proof of inspection or proof of a  
1243 pending request for such inspection. If the applicant provides proof of inspection or proof of a pending

1244 request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a  
1245 pending application or inspection, such license shall authorize the licensee to purchase marijuana,  
1246 marijuana products, immature marijuana plants, or marijuana seeds in accordance with the provisions of  
1247 this subtitle; however, the licensee shall not sell marijuana, marijuana products, immature marijuana  
1248 plants, or marijuana seeds until an inspection is completed.

1249 D. Each applicant for a license under the provisions of this subtitle shall post a notice of his  
1250 application with the Board on the front door of the building, place, or room where he proposes to engage  
1251 in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and  
1252 contain such information as required by the Board, including a statement that any objections shall be  
1253 submitted to the Board not more than 30 days following initial posting of the notice required pursuant to  
1254 this subsection.

1255 The applicant shall also cause notice to be published at least once a week for two consecutive  
1256 weeks in a newspaper published in or having a general circulation in the county, city, or town wherein  
1257 such applicant proposes to engage in such business. Such notice shall contain such information as required  
1258 by the Board, including a statement that any objections to the issuance of the license be submitted to the  
1259 Board not later than 30 days from the date of the initial newspaper publication.

1260 E. The Board shall conduct a background investigation, to include a criminal history records  
1261 search, which may include a fingerprint-based national criminal history records search, on each applicant  
1262 for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history  
1263 records search and completed personal data form for officers, directors, nonmanaging members, or limited  
1264 partners of any applicant corporation, limited liability company, or limited partnership. In considering  
1265 criminal history record information, the Board shall not disqualify an applicant because of a past  
1266 conviction for a marijuana-related offense.

1267 F. The Board shall notify the local governing body of each license application through the town  
1268 manager, city manager, county administrator, or other designee of the locality. Local governing bodies  
1269 shall submit objections to the granting of a license within 30 days of the filing of the application.

1270 G. Each applicant shall pay the required application fee at the time the application is filed. The  
1271 license application fee shall be determined by the Board and shall be in addition to the actual cost charged  
1272 to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records  
1273 Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central  
1274 Criminal Records Exchange for each criminal history records search required by the Board. Application  
1275 fees shall be in addition to the state license fee required pursuant to § 4.1-1001 and shall not be refunded.

1276 H. Subsection A shall not apply to the continuance of licenses granted under this subtitle; however,  
1277 all licensees shall file and maintain with the Board a current, accurate record of the information required  
1278 by the Board pursuant to subsection A and notify the Board of any changes to such information in  
1279 accordance with Board regulations.

1280 I. Every application for a permit granted pursuant to § 4.1-806 shall be on a form provided by the  
1281 Board. Such permits shall confer upon their holders no authority to make solicitations in the  
1282 Commonwealth as otherwise provided by law.

1283 The fee for a temporary permit shall be one-twelfth of the combined fees required by this section  
1284 for applicable licenses to sell marijuana or marijuana products computed to the nearest cent and multiplied  
1285 by the number of months for which the permit is granted.

1286 J. The Board shall have the authority to increase state license fees. The Board shall set the amount  
1287 of such increases on the basis of the consumer price index and shall not increase fees more than once every  
1288 three years. Prior to implementing any state license fee increase, the Board shall provide notice to all  
1289 licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that  
1290 would be required for any license affected by the Board's proposed fee increases. Such notice shall be  
1291 provided on or before November 1 in any year in which the Board has decided to increase state license  
1292 fees, and such increases shall become effective July 1 of the following year.

1293 **§ 4.1-1001. Fees for state licenses.**

1294 A. Annual fees on state licenses shall be established by the Board in an amount sufficient to cover  
1295 the costs of regulating the marijuana establishment.

1296 B. The fee on each license granted or reissued for a period other than 12, 24, or 36 months shall  
1297 be equal to one-twelfth of the fees required by subsection A computed to the nearest cent, multiplied by  
1298 the number of months in the license period, and then increased by five percent. Such fee shall not be  
1299 refundable, except as provided in § 4.1-1002.

1300 C. Nothing in this subtitle shall exempt any licensee from any state merchants' license or state  
1301 restaurant license or any other state tax except the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et  
1302 seq.) pursuant to § 4.1-1003. Every licensee, in addition to the taxes and fees imposed by this subtitle,  
1303 shall be liable to state merchants' license taxation and other state taxation.

1304 D. In addition to the fees set forth in this section, a fee of \$5 may be imposed on any license  
1305 purchased in person from the Board if such license is available for purchase online.

1306 E. The Board may waive all or part of the initial license fee if (i) the license applicant is a service  
1307 disabled veteran, as defined in § 2.2-4310, or a small, women-owned, or minority-owned business, as  
1308 those terms are defined in § 2.2-1604, that is certified by the Department of Small Business and Supplier  
1309 Diversity pursuant to § 2.2-1606 or (ii) the licensed marijuana establishment would be located in a  
1310 historically economically disadvantaged community, as defined in § 56-576.

1311 **§ 4.1-1002. Refund of state license fee.**

1312 A. The Board may (i) correct erroneous assessments made by it against any person, (ii) refund any  
1313 amounts collected through erroneous assessments or collected as fees on licenses applications that are  
1314 subsequently refused or withdrawn, and (iii) allow credit for any license fees paid for any license that is  
1315 subsequently merged or changed into another license during the same license period. No refund shall be  
1316 made of any such amount, however, unless made within three years from the date of collection of the  
1317 same.

1318 B. In any case where a licensee has changed its name or form of organization during a license  
1319 period without any change being made in its ownership, and because of such change is required to pay an  
1320 additional license fee for such period, the Board shall refund to such licensee the amount of such fee so  
1321 paid in excess of the required license fee for such period.

1322 C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees  
1323 of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the  
1324 license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or  
1325 similar natural disaster or phenomenon.

1326 D. Any amount required to be refunded under this section shall be paid by the State Treasurer out  
1327 of moneys appropriated to the Board and in the manner prescribed in § 4.1-614.

1328 **§ 4.1-1003. Marijuana tax; exceptions.**

1329 A. A tax of 12 percent is levied on the sale in the Commonwealth of any marijuana, marijuana  
1330 products, and marijuana paraphernalia sold by a retail marijuana store, including non-retail marijuana and  
1331 non-retail marijuana products. The tax shall be in lieu of any tax imposed under the Virginia Retail Sales  
1332 and Use Tax Act (§ 58.1-600 et seq.).

1333 B. The tax shall not apply to any sale:

1334 1. From a marijuana establishment to another marijuana establishment.

1335 2. Of cannabis products for treatment under the provisions of Chapter 16 (§ 4.1-1600 et seq.).

1336 3. Of industrial hemp by a grower, processor, or handler under the provisions of Chapter 41.1 (§  
1337 3.2-4112 et seq.) of Title 3.2.

1338 4. Of a hemp product or regulated hemp product.

1339 C. All revenues remitted to the Authority under this section shall be disposed of as provided in §  
1340 4.1-614.

1341 **§ 4.1-1004. Tax returns and payments; commissions; interest.**

1342 A. For any sale taxable under § 4.1-1003, the seller shall be liable for collecting any taxes due. All  
1343 taxes collected by a seller shall be deemed to be held in trust for the Commonwealth. The buyer shall not  
1344 be liable for collecting or remitting the taxes or filing a return.

1345 B. On or before the tenth day of each month, any person liable for a tax due under § 4.1-1003 shall  
1346 file a return under oath with the Authority and pay any taxes due. Upon written application by a person  
1347 filing a return, the Authority may, if it determines good cause exists, grant an extension to the end of the

1348 calendar month in which the tax is due, or for a period not exceeding 30 days. Any extension shall toll the  
1349 accrual of any interest or penalties under § 4.1-1007.

1350 C. The Authority may accept payment by any commercially acceptable means, including cash,  
1351 checks, credit cards, debit cards, and electronic funds transfers, for any taxes, interest, or penalties due  
1352 under this subtitle. The Board may assess a service charge for the use of a credit or debit card.

1353 D. Upon request, the Authority may collect and maintain a record of a person's credit card, debit  
1354 card, or automated clearinghouse transfer information and use such information for future payments of  
1355 taxes, interest, or penalties due under this subtitle. The Authority may assess a service charge for any  
1356 payments made under this subsection. The Authority may procure the services of a third-party vendor for  
1357 the secure storage of information collected pursuant to this subsection.

1358 E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the  
1359 business, such person shall make a final return and payment within 15 days after the date of selling or  
1360 quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the purchase  
1361 money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner  
1362 produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or  
1363 interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as  
1364 provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties  
1365 due and unpaid on account of the operation of the business by any former owner.

1366 F. When any person fails to timely pay the full amount of tax due under § 4.1-1003, interest at a  
1367 rate determined in accordance with § 58.1-15 shall accrue on the tax until it is paid. Any taxes due under  
1368 § 4.1-1003 shall, if applicable, be subject to penalties as provided in §§ 4.1-1205 and 4.1-1206.

1369 **§ 4.1-1005. Bonds.**

1370 The Authority may, when deemed necessary and advisable to do so in order to secure the collection  
1371 of the taxes levied under § 4.1-1003, require any person subject to such tax to file a bond, with such surety  
1372 as it determines is necessary to secure the payment of any tax, penalty, or interest due or that may become  
1373 due from such person. In lieu of such bond, securities approved by the Authority may be deposited with  
1374 the State Treasurer, which securities shall be kept in the custody of the State Treasurer, and shall be sold

1375 by the State Treasurer at the request of the Authority at public or private sale if it becomes necessary to  
1376 do so in order to recover any tax, interest, or penalty due the Commonwealth. Upon any such sale, the  
1377 surplus, if any, above the amounts due shall be returned to the person who deposited the securities.

1378 **§ 4.1-1006. Refunds.**

1379 A. Whenever it is proved to the satisfaction of the Authority that any taxes levied pursuant to §  
1380 4.1-1003 have been paid and that the taxable items were or are (i) damaged, destroyed, or otherwise  
1381 deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer; (ii)  
1382 destroyed voluntarily, after notice to and approval by the Authority of such destruction, because the  
1383 taxable items were defective; or (iii) destroyed in any manner while in the possession of a common,  
1384 private, or contract carrier, the Authority shall certify such facts to the Comptroller for approval of a refund  
1385 payment from the state treasury to such extent as may be proper.

1386 B. Whenever it is proved to the satisfaction of the Authority that any person has purchased taxable  
1387 items that have been sold by such person in such manner as to be exempt from the tax, the Authority shall  
1388 certify such facts to the Comptroller for approval of a refund payment from the state treasury to such  
1389 extent as may be proper.

1390 C. In the event purchases are returned to the seller by the buyer after a tax imposed under § 4.1-  
1391 1003 has been collected or charged to the account of the buyer, the seller shall be entitled to a refund of  
1392 the amount of tax so collected or charged in the manner prescribed by the Authority. The amount of tax  
1393 so refunded to the seller shall not, however, include the tax paid upon any amount retained by the seller  
1394 after such return of merchandise. In case the tax has not been remitted by the seller, the seller may deduct  
1395 the same in submitting his return.

1396 **§ 4.1-1007. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**  
1397 **penalties.**

1398 A. The taxes imposed under § 4.1-1003 shall be assessed within three years from the date on which  
1399 such taxes became due and payable. In the case of a false or fraudulent return with intent to defraud the  
1400 Commonwealth, or a failure to file a return, the taxes may be assessed, or a proceeding in court for the  
1401 collection of such taxes may be begun without assessment, at any time within six years from such date.

1402 The Authority shall not examine any person's records beyond the three-year period of limitations unless  
1403 it has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to  
1404 file a return and failed to do so.

1405 B. If any person fails to file a return as required by this section, or files a return that is false or  
1406 fraudulent, the Authority may make an estimate for the taxable period of the taxable sales of such person  
1407 and assess the tax, plus any applicable interest and penalties. The Authority shall give such person 10  
1408 days' notice requiring such person to provide any records as it may require relating to the business of such  
1409 person for the taxable period. The Authority may require such person or the agents and employees of such  
1410 person to give testimony or to answer interrogatories under oath administered by the Authority respecting  
1411 taxable sales, the filing of the return, and any other relevant information. If any person fails to file a  
1412 required return, refuses to provide required records, or refuses to answer interrogatories from the  
1413 Authority, the Authority may make an estimated assessment based upon the information available to it  
1414 and issue a memorandum of lien under subsection C for the collection of any taxes, interest, or penalties.  
1415 The estimated assessment shall be deemed prima facie correct.

1416 C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not  
1417 pay within 30 days after the due date, taking into account any extensions granted by the Authority, the  
1418 Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which  
1419 the person's place of business is located or in which the person resides. If the person has no place of  
1420 business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of  
1421 the City of Richmond. A copy of the memorandum may also be filed in the clerk's office of all counties  
1422 and cities in which the person owns real estate. Such memorandum shall be recorded in the judgment  
1423 docket book and shall have the effect of a judgment in favor of the Commonwealth, to be enforced as  
1424 provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01, except that a writ of fieri facias may  
1425 issue at any time after the memorandum is filed. The lien on real estate shall become effective at the time  
1426 the memorandum is filed in the jurisdiction in which the real estate is located. No memorandum of lien  
1427 shall be filed unless the person is first given 10 or more days' prior notice of intent to file a lien; however,  
1428 in those instances where the Authority determines that the collection of any tax, penalties, or interest

1429 required to be paid pursuant to law will be jeopardized by the provision of such notice, notification may  
1430 be provided to the person concurrent with the filing of the memorandum of lien. Such notice shall be given  
1431 to the person at his last known address.

1432 2. Recordation of a memorandum of lien under this subsection shall not affect a person's right to  
1433 appeal under § 4.1-1008.

1434 3. If after filing a memorandum of lien the Authority determines that it is in the best interest of the  
1435 Commonwealth, it may place padlocks on the doors of any business enterprise that is delinquent in filing  
1436 or paying any tax owed to the Commonwealth. The Authority shall also post notices of distraint on each  
1437 of the doors so padlocked. If, after three business days, the tax deficiency has not been satisfied or  
1438 satisfactory arrangements for payment have not been made, the Authority may cause a writ of fieri facias  
1439 to be issued. It shall be a Class 1 misdemeanor for anyone to enter the padlocked premises without prior  
1440 approval of the Authority. In the event that the person against whom the distraint has been applied  
1441 subsequently appeals under § 4.1-1008, the person shall have the right to post bond equaling the amount  
1442 of liability in lieu of payment until the appeal is resolved.

1443 4. A person may petition the Authority after a memorandum of lien has been filed under this  
1444 subsection if the person alleges an error in the filing of the lien. The Authority shall make a determination  
1445 on such petition within 14 days. If the Authority determines that the filing was erroneous, it shall issue a  
1446 certificate of release of the lien within seven days after such determination is made.

1447 **§ 4.1-1008. Appeals.**

1448 Any tax imposed under § 4.1-1003, any interest imposed under § 4.1-1007, any action of the  
1449 Authority under § 4.1-1204, and any penalty imposed under § 4.1-1205 or 4.1-1206 shall be subject to  
1450 review under the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the entire  
1451 evidential record of the proceedings provided by the Authority in accordance with the Administrative  
1452 Process Act. An appeal shall lie to the Court of Appeals from any order of a circuit court. Notwithstanding  
1453 § 8.01-676.1, the final judgment or order of a circuit court shall not be suspended, stayed, or modified by  
1454 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in  
1455 any such case.

1456 § 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age  
1457 or older lawful; penalties.

1458 A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a  
1459 person 21 years of age or older may lawfully possess on his person or in any public place not more than  
1460 ~~one ounce~~ two and one-half ounces of marijuana or an equivalent amount of marijuana product as  
1461 determined by regulation promulgated by the Board.

1462 B. Any person who possesses on his person or in any public place marijuana or marijuana products  
1463 in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than \$25 except  
1464 as otherwise provided in this section. The penalty for any violations of this section by an adult shall be  
1465 prepayable according to the procedures in § 16.1-69.40:2.

1466 C. With the exception of possession by a person in his residence or possession by a licensee in the  
1467 course of his duties related to such licensee's marijuana establishment, any person who possesses on his  
1468 person or in any public place (i) more than four ounces but not more than one pound of marijuana or an  
1469 equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty  
1470 of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more  
1471 than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation  
1472 promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one  
1473 year nor more than 10 years and a fine of not more than \$250,000, or both.

1474 D. The provisions of this section shall not apply to members of federal, state, county, city, or town  
1475 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as  
1476 handlers of dogs trained in the detection of controlled substances when possession of marijuana is  
1477 necessary for the performance of their duties.

1478 § 4.1-1101. Home cultivation of marijuana for personal use; penalties.

1479 A. ~~Notwithstanding the provisions of subdivision (e) of § 18.2-248.1, a~~ A person 21 years of age  
1480 or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at  
1481 no point shall a household contain more than four marijuana plants. For purposes of this section, a

1482 "household" means those individuals, whether related or not, who live in the same house or other place of  
1483 residence.

1484 A person may only cultivate marijuana plants pursuant to this section at such person's main place  
1485 of residence.

1486 A violation of this subsection shall be punishable as follows:

1487 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a  
1488 civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class  
1489 2 misdemeanor for a third and any subsequent offense;

1490 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

1491 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

1492 4. For possession of more than 100 marijuana plants, a felony punishable by a term of  
1493 imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or  
1494 both.

1495 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1496 1. Ensure that no marijuana plant is visible from a public way without the use of aircraft,  
1497 binoculars, or other optical aids;

1498 2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

1499 3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or  
1500 identification number, and a notation that the marijuana plant is being grown for personal use as authorized  
1501 under this section.

1502 Any person who violates this subsection is subject to a civil penalty of no more than \$25. The  
1503 penalty for any violations of this section by an adult shall be prepayable according to the procedures in §  
1504 16.1-69.40:2.

1505 C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The  
1506 owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to  
1507 manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land. A  
1508 violation of this subsection is punishable as a Class 1 misdemeanor.

1509 § 4.1-1102. Illegal cultivation, processing, or manufacture of marijuana or marijuana  
1510 products; conspiracy; penalties.

1511 A. Except as otherwise provided in §§ 4.1-700 and 4.1-1101, no person shall cultivate, process, or  
1512 manufacture marijuana or marijuana products in the Commonwealth without being licensed under this  
1513 subtitle to cultivate, process, or manufacture such marijuana or marijuana products.

1514 B. Any person convicted of a violation of this section is guilty of a Class 6 felony.

1515 C. If two or more persons conspire together to do any act that is in violation of subsection A, and  
1516 one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such  
1517 conspiracy is guilty of a Class 6 felony.

1518 § 4.1-1103. Illegal sale of marijuana or marijuana products in general; penalties.

1519 A. For the purposes of this section, "adult sharing" means transferring marijuana between persons  
1520 who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in  
1521 which (i) marijuana is given away contemporaneously with another reciprocal transaction between the  
1522 same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of  
1523 goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods  
1524 or services.

1525 B. If any person who is not licensed sells, gives, or distributes or possesses with intent to sell, give,  
1526 or distribute any marijuana or marijuana products except as permitted by this chapter or provided in  
1527 subsection C, he is guilty of a Class 2 misdemeanor.

1528 A second or subsequent conviction under this section shall constitute a Class 1 misdemeanor.

1529 C. No civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that  
1530 does not exceed two and one-half ounces or of an equivalent amount of marijuana products.

1531 § 4.1-1104. Persons to whom marijuana or marijuana products may not be sold; proof of  
1532 legal age; penalties.

1533 A. No person shall, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), sell, give,  
1534 or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows  
1535 or has reason to believe that the individual to whom the sale is made is (i) younger than 21 years of age

1536 or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1  
1537 misdemeanor.

1538 B. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,  
1539 marijuana paraphernalia to any person younger than 21 years of age. Any person who violates this  
1540 subsection is guilty of a Class 1 misdemeanor.

1541 C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication  
1542 any advertisement, knowing or under circumstances where one reasonably should know, that the purpose  
1543 of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons  
1544 younger than 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

1545 D. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any  
1546 marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of  
1547 the sale does not require the individual to present bona fide evidence of legal age indicating that the  
1548 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal  
1549 age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by  
1550 any state of the United States or the District of Columbia, military identification card, United States  
1551 passport or foreign government visa, unexpired special identification card issued by the Department of  
1552 Motor Vehicles, or any other valid government-issued identification card bearing the individual's  
1553 photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably  
1554 appears to match the appearance of the purchaser. A student identification card shall not constitute bona  
1555 fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this  
1556 subsection is guilty of a Class 3 misdemeanor.

1557 E. No person shall be convicted of both subsections A and D for the same sale.

1558 **§ 4.1-1105. Purchasing of marijuana or marijuana products unlawful in certain cases; venue;**  
1559 **exceptions; penalties; forfeiture; treatment and education programs and services.**

1560 A. No person to whom marijuana or marijuana products may not lawfully be sold under § 4.1-  
1561 1104 shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or  
1562 marijuana products, except (i) pursuant to § 4.1-700 or (ii) by any federal, state, or local law-enforcement

1563 officer or his agent when possession of marijuana or marijuana products is necessary in the performance  
1564 of his duties. Such person may be prosecuted either in the county or city in which the marijuana or  
1565 marijuana products were possessed or consumed or in the county or city in which the person exhibits  
1566 evidence of physical indicia of consumption of marijuana or marijuana products.

1567 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of  
1568 no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both,  
1569 if available, that in the opinion of the court best suits the needs of the accused.

1570 C. Unless the juvenile is proceeded against informally pursuant to § 16.1-260, any juvenile who  
1571 violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the  
1572 accused to enter a substance abuse treatment or education program or both, if available, that in the opinion  
1573 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-  
1574 278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

1575 D. Any such substance abuse treatment or education program to which a juvenile is ordered  
1576 pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral  
1577 Health and Developmental Services or (ii) a similar program available through a facility or program  
1578 operated by or under contract with the Department of Juvenile Justice or a locally operated court services  
1579 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et  
1580 seq.). Any such substance abuse treatment or education program to which a person 18 years of age or  
1581 older is ordered pursuant to this section shall be provided by (a) a program licensed by the Department of  
1582 Behavioral Health and Developmental Services or (b) a program or services made available through a  
1583 community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of  
1584 Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local  
1585 community-based probation services agency, the local community-based probation services agency shall  
1586 be responsible for providing for services or referring the offender to education or treatment services as a  
1587 condition of probation.

1588 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender  
1589 Assessment and Treatment Fund established pursuant to § 18.2-251.02. No person younger than 21 years

1590 of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a  
1591 motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth  
1592 certificate or student identification card; or (iii) motor vehicle driver's license or other document issued  
1593 under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth  
1594 certificate, or student identification card of another person in order to establish a false identification or  
1595 false age for himself to consume, purchase, or attempt to consume or purchase marijuana or marijuana  
1596 products. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1597 F. Any marijuana or marijuana product purchased or possessed in violation of this section shall be  
1598 deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1599 G. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state  
1600 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded  
1601 immunity from an administrative penalty for a violation of § 4.1-1104.

1602 **§ 4.1-1106. Purchasing marijuana or marijuana products for one to whom they may not be**  
1603 **sold; penalties; forfeiture.**

1604 A. Any person who purchases marijuana or marijuana products for another person and at the time  
1605 of such purchase knows or has reason to believe that the person for whom the marijuana or marijuana  
1606 products were purchased was intoxicated is guilty of a Class 1 misdemeanor.

1607 B. Any person who purchases for, or otherwise gives, provides, or assists in the provision of  
1608 marijuana or marijuana products to, another person when he knows or has reason to know that such person  
1609 is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when  
1610 possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a  
1611 Class 1 misdemeanor.

1612 C. Any marijuana or marijuana products purchased in violation of this section shall be deemed  
1613 contraband and forfeited to the Commonwealth in accordance with § 4.1-1304.

1614 **§ 4.1-1111. Illegal importation, shipment, and transportation of marijuana or marijuana**  
1615 **products; penalty.**

1616 A. No marijuana or marijuana products shall be imported, shipped, transported, or brought into the  
1617 Commonwealth.

1618 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1619 **§ 4.1-1113. Maintaining common nuisances; penalties.**

1620 A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and places of  
1621 every description where marijuana or marijuana products are manufactured, processed, stored, sold,  
1622 dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed  
1623 common nuisances.

1624 No person shall maintain, aid, abet, or knowingly associate with others in maintaining a common  
1625 nuisance.

1626 Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1627 B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not  
1628 involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-1304 and 4.1-1305  
1629 and upon proof of guilty knowledge, judgment may be given that such house, boathouse, building, boat,  
1630 car, or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving  
1631 bond in the penalty of not less than \$500 and with security to be approved by the court, conditioned that  
1632 the premises shall not be used for unlawful purposes, or in violation of the provisions of this subtitle for a  
1633 period of five years, turn the same over to its owner or lessor, or proceeding may be had in equity as  
1634 provided in § 4.1-1305.

1635 C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or  
1636 lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii)  
1637 had the right, because of such unlawful use, to enter and repossess the property.

1638 **§ 4.1-1114. Maintaining a fortified drug house; penalty.**

1639 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
1640 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered  
1641 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry  
1642 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing,

1643 processing, or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a  
1644 fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5  
1645 felony.

1646 **§ 4.1-1115. Disobeying subpoena; hindering conduct of hearing; penalty.**

1647 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member,  
1648 or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum  
1649 of any hearing held and conducted by the Board, any Board member, or any agent authorized by the Board  
1650 to hold and conduct such hearing.

1651 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1652 **§ 4.1-1117. Delivery of marijuana or marijuana products to prisoners; penalty.**

1653 No person shall deliver, or cause to be delivered, to any prisoner in any state, local, or regional  
1654 correctional facility or any person committed to the Department of Juvenile Justice in any juvenile  
1655 correctional center any marijuana or marijuana products.

1656 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1657 **§ 4.1-1118. Separation of plant resin by butane extraction; penalty.**

1658 A. No person shall separate plant resin by butane extraction or another method that utilizes a  
1659 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within  
1660 the curtilage of any residential structure.

1661 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1662 **§ 4.1-1119. Attempts; aiding or abetting; penalty.**

1663 No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another  
1664 in doing, or attempting to do, any of the things prohibited by this subtitle.

1665 On an indictment, information, or warrant for the violation of this subtitle, the jury or the court  
1666 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same  
1667 as if the defendant were solely guilty of such violation.

1668 **§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.**

1669 Any violation under this subtitle that is subject to a civil penalty is a civil offense and, except in  
1670 the case of a violation alleged to have been committed by a juvenile, in which case the juvenile shall be  
1671 proceeded against pursuant to § 16.1-260, shall be charged by summons. A summons for a violation under  
1672 this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such  
1673 violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this  
1674 section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed  
1675 pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the  
1676 Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1677

CHAPTER 12.

1678

PROHIBITED PRACTICES BY LICENSEES.

1679

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

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

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1. Cultivate, process, transport, sell, or test any marijuana or marijuana products of a kind other

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than that which such license or this subtitle authorizes him to cultivate, process, transport, sell, or test;

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2. Sell marijuana or marijuana products to any person other than a person to whom such license or

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this subtitle authorizes him to sell;

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3. Cultivate, process, transport, sell, or test marijuana or marijuana products that such license or

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this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle

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authorizes him to cultivate, process, transport, sell, or test;

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4. Cultivate, process, transport, sell, or test any marijuana or marijuana products when forbidden

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by this subtitle;

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5. Keep or allow to be kept, other than in his residence and for his personal use, any marijuana or

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marijuana products other than that which he is authorized to cultivate, process, transport, sell, or test by

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such license or by this subtitle;

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

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by him; or

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

1696 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1697 **§ 4.1-1201. Prohibited acts by employees of marijuana store licensees; civil penalty.**

1698 A. In addition to the provisions of § 4.1-1200, no retail marijuana store licensee or his agent or  
1699 employee shall use or consume any marijuana or marijuana products (i) on the licensed premises, except  
1700 for certain sampling for quality control purposes in accordance with Board regulations or (ii) while on  
1701 duty and in a position that is involved in the selling of marijuana or marijuana products to consumers.

1702 B. No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana  
1703 or marijuana products.

1704 C. Any person convicted of a violation of this section shall be subject to a civil penalty in an  
1705 amount not to exceed \$500.

1706 **§ 4.1-1202. Sale of; purchase for resale; marijuana or marijuana products from a person**  
1707 **without a license; penalty.**

1708 Except as otherwise provided in § 4.1-805, no retail marijuana store licensee shall purchase for  
1709 resale or sell any marijuana, marijuana products, immature marijuana plants, or marijuana seeds purchased  
1710 from anyone other than a marijuana cultivation facility or marijuana processing facility.

1711 Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1712 **§ 4.1-1203. Prohibiting transfer of marijuana or marijuana products by licensees; penalty.**

1713 A. No licensed marijuana establishment shall transfer any marijuana or marijuana products from  
1714 one licensed place of business to another licensed place of business unless such transfer is completed by  
1715 a marijuana transporter licensee.

1716 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1717 **§ 4.1-1204. Illegal advertising materials; civil penalty.**

1718 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to  
1719 any licensee selling, renting, lending, buying for, or giving to any person any advertising materials or  
1720 decorations under circumstances prohibited by this title or Board regulations.

1721 Any person found by the Board to have violated this section shall be subject to a civil penalty as  
1722 authorized in § 4.1-903.

1723 § 4.1-1205. Failure of licensee to pay tax or to deliver, keep, and preserve records and  
1724 accounts or to allow examination and inspection; penalty.

1725 A. No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-1003; (ii) deliver, keep,  
1726 and preserve such records, invoices, and accounts as are required by § 4.1-703 or Board regulation; or (iii)  
1727 allow such records, invoices, and accounts or his place of business to be examined and inspected in  
1728 accordance with § 4.1-703. Any person convicted of a violation of this subsection is guilty of a Class 1  
1729 misdemeanor.

1730 B. After reasonable notice to a licensee that failed to make a return or pay taxes due, the Authority  
1731 may suspend or revoke any license of such licensee that was issued by the Authority.

1732 § 4.1-1206. Nonpayment of marijuana tax; penalties.

1733 A. No person shall make a sale taxable under § 4.1-1003 without paying all applicable taxes due  
1734 under § 4.1-1003. No retail marijuana store licensee shall purchase, receive, transport, store, or sell any  
1735 marijuana or marijuana products on which such retailer has reason to know such tax has not been paid and  
1736 may not be paid. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

1737 B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil  
1738 penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not  
1739 more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during  
1740 which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

1741 C. In the case of a false or fraudulent return, where willful intent exists to defraud the  
1742 Commonwealth of any tax due on marijuana or marijuana products, a civil penalty of 50 percent of the  
1743 amount of the proper tax due shall be assessed. Such penalty shall be in addition to any penalty imposed  
1744 under subsection B. It shall be prima facie evidence of willful intent to defraud the Commonwealth when  
1745 any person reports its taxable sales to the Authority at 50 percent or less of the actual amount.

1746 D. If any check tendered for any amount due under § 4.1-1003 or this section is not paid by the  
1747 bank on which it is drawn, and the person that tendered the check fails to pay the Authority the amount  
1748 due within five days after the Authority gives it notice that such check was returned unpaid, the person  
1749 that tendered the check is guilty of a violation of § 18.2-182.1.

1750 E. All penalties shall be payable to the Authority and if not so paid shall be collectible in the same  
1751 manner as if they were a part of the tax imposed.

1752 **§ 4.1-1300. Enjoining nuisances.**

1753 A. In addition to the penalties imposed by § 4.1-1113, the Board, its special agents, the attorney  
1754 for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined  
1755 in § 4.1-1113 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common  
1756 nuisance.

1757 B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the  
1758 knowledge or belief of the complainant, and is sworn to by two reputable citizens, that marijuana or  
1759 marijuana products are cultivated, processed, stored, sold, dispensed, given away, or used in such house,  
1760 building, or other place described in § 4.1-1113 contrary to the laws of the Commonwealth, an injunction  
1761 shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the  
1762 owners and tenants and their agents and employees, and any person connected with such house, building,  
1763 or other place, and all persons whomsoever from cultivating, processing, storing, selling, dispensing,  
1764 giving away, or using marijuana or marijuana products on such premises. The injunction shall also restrain  
1765 all persons from removing any marijuana or marijuana products then on such premises until the further  
1766 order of the court. If the court is satisfied that the material allegations of the bill are true, although the  
1767 premises complained of may not then be unlawfully used, it shall continue the injunction against such  
1768 place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is  
1769 shown for dissolution.

1770 **§ 4.1-1301. Contraband marijuana or marijuana products and other articles subject to**  
1771 **forfeiture.**

1772 A. All apparatus and materials for the cultivation or processing of marijuana or marijuana products,  
1773 all marijuana or marijuana products and materials used in their manufacture or processing, and all  
1774 containers in which marijuana or marijuana products may be found that are kept, stored, possessed, or in  
1775 any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described  
1776 in § 18.2-308 that may be used or that may be found upon the person, or in any vehicle that such person

1777 is using, to aid such person in the unlawful cultivation, manufacture, processing, transportation, or sale of  
1778 marijuana or marijuana products, or found in the possession of such person, or any horse, mule, or other  
1779 beast of burden or any wagon, automobile, truck, or vehicle of any nature whatsoever that is found in the  
1780 immediate vicinity of any place where marijuana or marijuana products are being unlawfully  
1781 manufactured or processed and where such animal or vehicle is being used to aid in the unlawful  
1782 manufacture or processing, shall be deemed contraband and shall be forfeited to the Commonwealth.

1783 B. Proceedings for the confiscation of the property in subsection A shall be in accordance with §  
1784 4.1-1304 for all such property except motor vehicles, which proceedings shall be in accordance with  
1785 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

1786 **§ 4.1-1303. Search warrants.**

1787 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,  
1788 manufactured, processed, sold, kept, stored, or in any manner held, used, or concealed in a particular  
1789 house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue  
1790 criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such  
1791 belief, shall issue a warrant to search such house or other place for marijuana or marijuana products. Such  
1792 warrants, except as herein otherwise provided, shall be issued, directed, and executed in accordance with  
1793 the laws of the Commonwealth pertaining to search warrants.

1794 B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance, or  
1795 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or  
1796 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they  
1797 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,  
1798 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be  
1799 transported contrary to law.

1800 **§ 4.1-1304. Confiscation proceedings; disposition of forfeited articles.**

1801 A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and  
1802 forfeited to the Commonwealth under this subtitle shall be as provided in this section.

1803 B. Whenever any article declared contraband under the provisions of this subtitle and required to  
1804 be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with  
1805 the enforcement of this subtitle, he shall produce the contraband article and any person in whose  
1806 possession it was found. In those cases where no person is found in possession of such articles, the return  
1807 shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the  
1808 articles were found, or if there is no door, then in any conspicuous place upon the premises.

1809 In case of seizure of any item for any offense involving its forfeiture where it is impracticable to  
1810 remove such item to a place of safe storage from the place where seized, the seizing officer may destroy  
1811 such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the  
1812 presence of at least one credible witness, and such witness shall join the officer in a sworn report of the  
1813 seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of  
1814 forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed,  
1815 and the materials remaining after such destruction. The report shall include a statement that, from facts  
1816 within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set  
1817 up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that  
1818 it was impracticable to remove such apparatus to a place of safe storage.

1819 In case of seizure of any quantity of marijuana or marijuana products for any offense involving  
1820 forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof  
1821 for the purpose of unlawful cultivation, processing, or manufacture of marijuana or marijuana products or  
1822 any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness,  
1823 and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the  
1824 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and  
1825 destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness  
1826 have no doubt whatever that the marijuana or marijuana products were intended for use in the unlawful  
1827 cultivation, processing, or manufacture of marijuana or marijuana products or were intended for use in  
1828 violation of this subtitle.

1829 C. Upon the return of the warrant as provided in this section, the court shall fix a time not less than  
1830 10 days, unless waived by the accused in writing, and not more than 30 days thereafter, for the hearing on  
1831 such return to determine whether or not the articles seized, or any part thereof, were used or in any manner  
1832 kept, stored, or possessed in violation of this subtitle.

1833 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the  
1834 Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn  
1835 them over to the Board. Any person claiming an interest in any of the articles seized may appear at the  
1836 hearing and file a written claim setting forth particularly the character and extent of his interest. The court  
1837 shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and  
1838 determine the validity of such claim.

1839 If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized  
1840 to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall  
1841 not be a bar to any prosecution under any other provision of this subtitle.

1842 D. Any articles forfeited to the Commonwealth and turned over to the Board in accordance with  
1843 this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales  
1844 shall be paid into the Literary Fund.

1845 If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the  
1846 Board in accordance with this section are usable, should not be destroyed, and cannot be sold, or whose  
1847 sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall  
1848 prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place.  
1849 A record shall be made showing the nature of the foodstuffs and amount given, to whom given, and the  
1850 date when given and shall be kept in the offices of the Board.

1851 **§ 4.1-1305. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

1852 A. When any officer charged with the enforcement of the cannabis control laws of the  
1853 Commonwealth has reason to believe that marijuana or marijuana products illegally acquired, or being  
1854 illegally transported, are in any conveyance or vehicle of any kind, either on land or on water, except a  
1855 conveyance or vehicle owned or operated by a railroad, express, sleeping, or parlor car or a steamboat

1856 company, other than barges, tugs, or small craft, he shall obtain a search warrant and search such  
1857 conveyance or vehicle. If illegally acquired marijuana or marijuana products or marijuana or marijuana  
1858 products being illegally transported in amounts in excess of two and one-half ounces of marijuana, 16  
1859 ounces of solid marijuana product, or 72 ounces of liquid marijuana product are found, the officer shall  
1860 seize the marijuana or marijuana product, seize and take possession of such conveyance or vehicle, and  
1861 deliver them to the chief law-enforcement officer of the locality in which such seizure was made, taking  
1862 his receipt therefor in duplicate.

1863 B. The officer making such seizure shall forthwith report in writing such seizure and arrest to the  
1864 attorney for the Commonwealth for the county or city in which the seizure and arrest were made.

1865 **§ 4.1-1306. Contraband marijuana or marijuana products.**

1866 Marijuana or marijuana products seized pursuant to § 4.1-1305 shall be deemed contraband and  
1867 disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of  
1868 permission issued by the Board authorizing the transportation of marijuana or marijuana products within  
1869 the Commonwealth when other Board regulations applicable to such transportation have been complied  
1870 with shall not be cause for deeming such marijuana or marijuana products contraband.

1871 **§ 4.1-1307. Punishment for violations of title or regulations; bond.**

1872 A. Any person convicted of a misdemeanor under the provisions of this subtitle without  
1873 specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or  
1874 convicted of violating any Board regulation is guilty of a Class 1 misdemeanor.

1875 B. In addition to the penalties imposed by this subtitle for violations, any court before whom any  
1876 person is convicted of a violation of any provision of this subtitle may require such defendant to execute  
1877 bond based upon his ability to pay, with approved security, in the penalty of not more than \$1,000, with  
1878 the condition that the defendant will not violate any of the provisions of this subtitle for the term of one  
1879 year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given,  
1880 or until he is discharged by the court, provided that he shall not be confined for a period longer than six  
1881 months. If any such bond required by a court is not given during the term of the court by which conviction  
1882 is had, it may be given before any judge or before the clerk of such court.

1883 C. The provisions of this subtitle shall not prevent the Board from suspending, revoking, or  
1884 refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

1885 D. No court shall hear such a case unless the respective attorney for the Commonwealth or his  
1886 assistant has been notified that such a case is pending.

1887 **§ 4.1-1308. Witness not excused from testifying because of self-incrimination.**

1888 No person shall be excused from testifying for the Commonwealth as to any offense committed  
1889 by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given  
1890 by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be  
1891 used against him and he shall not be prosecuted for the offense to which he testifies.

1892 **§ 4.1-1309. Previous convictions.**

1893 In any indictment, information, or warrant charging any person with a violation of any provision  
1894 of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove that  
1895 such person has been previously convicted of a violation of this subtitle.

1896 **§ 4.1-1310. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

1897 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board  
1898 or the Department of Forensic Science, when signed by him, shall be admissible as evidence of the facts  
1899 therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements  
1900 of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of  
1901 the certificate pursuant to subsection B of § 19.2-187.1 or (ii) in any civil proceeding. On motion of the  
1902 accused or any party in interest, the court may require the forensic scientist making the analysis to appear  
1903 as a witness and be subject to cross-examination, provided such motion is made within a reasonable time  
1904 prior to the day on which the case is set for trial.

1905 **§ 4.1-1311. Label on sealed container prima facie evidence of marijuana content.**

1906 In any prosecution for violations of this subtitle, where a sealed container is labeled as containing  
1907 marijuana or marijuana products, such labeling shall be prima facie evidence of the marijuana content of  
1908 the container. Nothing shall preclude the introduction of other relevant evidence to establish the marijuana  
1909 content of a container, whether sealed or not.

1910 **§ 4.1-1312. No recovery for marijuana or marijuana products illegally sold.**

1911 No action to recover the price of any marijuana or marijuana products sold in contravention of this  
1912 subtitle may be maintained.

1913 **§ 4.1-1403. Board to establish regulations for marijuana testing.**

1914 The Board shall establish a testing program for marijuana and marijuana products. Except as  
1915 otherwise provided in this subtitle or otherwise provided by law, the program shall require a licensee,  
1916 prior to selling or distributing marijuana or a marijuana product to a consumer or to another licensee, to  
1917 submit a representative sample of the marijuana or marijuana product, not to exceed 10 percent of the total  
1918 harvest or batch, to a licensed marijuana testing facility for testing to ensure that the marijuana or  
1919 marijuana product does not exceed the maximum level of allowable contamination for any contaminant  
1920 that is injurious to health and for which testing is required and to ensure correct labeling. The Board shall  
1921 adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing acceptable  
1922 testing and research practices, including regulations relating to testing practices, methods, and standards;  
1923 quality control analysis; equipment certification and calibration; marijuana testing facility recordkeeping,  
1924 documentation, and business practices; disposal of used, unused, and waste marijuana and marijuana  
1925 products; and reporting of test results; (iii) identifying the types of contaminants that are injurious to health  
1926 for which marijuana and marijuana products shall be tested under this subtitle; and (iv) establishing the  
1927 maximum level of allowable contamination for each contaminant.

1928 **§ 4.1-1404. Mandatory testing; scope; recordkeeping; notification; additional testing not**  
1929 **required; required destruction; random testing.**

1930 A. A licensee may not sell or distribute marijuana or a marijuana product to a consumer or to  
1931 another licensee under this subtitle unless a representative sample of the marijuana or marijuana product  
1932 has been tested pursuant to this subtitle and the regulations adopted pursuant to this subtitle and the  
1933 mandatory testing has demonstrated that (i) the marijuana or marijuana product does not exceed the  
1934 maximum level of allowable contamination for any contaminant that is injurious to health and for which  
1935 testing is required and (ii) the labeling on the marijuana or marijuana product is correct.

1936 B. Mandatory testing of marijuana and marijuana products under this section shall include testing

1937 for:

1938 1. Residual solvents;

1939 2. Heavy metals;

1940 3. Microbiological contaminants;

1941 4. Mycotoxins;

1942 5. Pesticide chemical residue; and

1943 6. Active ingredient analysis.

1944 Testing shall be performed on the final form in which the marijuana or marijuana product will be  
1945 consumed.

1946 C. A licensee shall maintain a record of all mandatory testing that includes a description of the  
1947 marijuana or marijuana product provided to the marijuana testing facility, the identity of the marijuana  
1948 testing facility, and the results of the mandatory test.

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

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

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

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

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

1963 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another  
1964 licensee marijuana or a marijuana product that the licensee has not submitted for testing in accordance  
1965 with this subtitle and regulations adopted pursuant to this subtitle if the following conditions are met:

1966 1. The marijuana or marijuana product has previously undergone testing in accordance with this  
1967 subtitle and regulations adopted pursuant to this subtitle at the direction of another licensee and the testing  
1968 demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable  
1969 tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing  
1970 is required;

1971 2. The mandatory testing process and the test results for the marijuana or marijuana product are  
1972 documented in accordance with the requirements of this subtitle and all applicable regulations adopted  
1973 pursuant to this subtitle;

1974 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
1975 marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or  
1976 to a consumer can be easily identified; and

1977 4. The marijuana or marijuana product has not undergone any further processing, manufacturing,  
1978 or alteration subsequent to the performance of the prior testing under subsection A.

1979 F. Licensees shall be required to destroy harvested batches of marijuana or batches of marijuana  
1980 products whose testing samples indicate noncompliance with the health and safety standards required by  
1981 this subtitle and the regulations adopted by the Board pursuant to this subtitle, unless remedial measures  
1982 can bring the marijuana or marijuana product into compliance with such required health and safety  
1983 standards.

1984 G. A licensee shall comply with all requests for samples of marijuana and marijuana products for  
1985 the purpose of random testing by a state-owned laboratory or state-approved private laboratory.

1986 **§ 4.1-1405. Labeling and packaging requirements; prohibitions.**

1987 A. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer  
1988 shall be labeled with the following information:

1989 1. Identification of the type of marijuana or marijuana product;

- 1990            2. The license numbers of the marijuana cultivation facility, the marijuana processing facility, and  
1991 the retail marijuana store where the marijuana or marijuana product was cultivated, processed, and offered  
1992 for sale, as applicable;
- 1993            3. A statement of the net weight of the marijuana or marijuana product;
- 1994            4. In English and in a font no less than 1/16 of an inch, information concerning (i) all ingredients,  
1995 including pharmacologically active ingredients, tetrahydrocannabinol, cannabidiol, and other cannabinoid  
1996 content; (ii) all possible allergens; (iii) the amount of servings in the package; (iv) if the product contains  
1997 tetrahydrocannabinol, the total percentage and milligrams of all tetrahydrocannabinols included in the  
1998 package and the total number of milligrams of all tetrahydrocannabinols contained in each serving; and  
1999 (v) the potency of the tetrahydrocannabinol and other cannabinoid content;
- 2000            5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;
- 2001            6. Instructions on usage, including information regarding the amount of marijuana or marijuana  
2002 product that constitutes a single serving;
- 2003            7. A recommended use by date or expiration date;
- 2004            8. For marijuana and marijuana products, the following statement, prominently displayed in bold  
2005 print and in a clear and legible fashion: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS  
2006 MARIJUANA AND TETRAHYDROCANNABINOL (THC). MARIJUANA MAY ONLY BE SOLD  
2007 TO AND USED BY ADULTS 21 YEARS OF AGE OR OLDER. KEEP OUT OF REACH OF  
2008 CHILDREN. CONSUMPTION OF MARIJUANA IMPAIRS COGNITION AND YOUR ABILITY TO  
2009 DRIVE AND MAY BE HABIT-FORMING. MARIJUANA SHOULD NOT BE USED WHILE  
2010 PREGNANT OR BREASTFEEDING. PLEASE USE CAUTION AND VISIT \_\_\_\_\_ (website  
2011 maintained by the Board pursuant to § 4.1-604) FOR MORE INFORMATION.";
- 2012            9. A universal symbol stamped or embossed on the packaging of any marijuana and marijuana  
2013 products;
- 2014            10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total  
2015 tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of the  
2016 batch from which the substance originates; and

2017 11. Any other information required by Board regulations.

2018 B. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
2019 accordance with the provisions of this subtitle shall be packaged in the following manner:

2020 1. Marijuana and marijuana products shall be prepackaged in child-resistant, tamper-evident, and  
2021 resealable packaging that is opaque or shall be placed at the final point of sale to a consumer in child-  
2022 resistant, tamper-evident, and resealable packaging that is opaque;

2023 2. Packaging for multiserving liquid marijuana products shall include an integral measurement  
2024 component; and

2025 3. Packaging shall comply with any other requirements imposed by Board regulations.

2026 C. Marijuana and marijuana products to be sold or offered for sale by a licensee to a consumer in  
2027 accordance with the provisions of this subtitle shall not:

2028 1. (i) Without authorization, bear, be packaged in a container or wrapper that bears, or otherwise  
2029 be labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other  
2030 identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or  
2031 distributor of a product intended for human consumption other than the manufacturer, processor, packer,  
2032 or distributor that did in fact so manufacture, process, pack, or distribute such substance or (ii) otherwise  
2033 be packaged or labeled in violation of a federal trademark law or regulation;

2034 2. Be labeled or packaged in a manner that appeals particularly to persons younger than 21 years  
2035 of age;

2036 3. Be labeled or packaged in a manner that obscures identifying information on the label;

2037 4. Be labeled or packaged using a false or misleading label;

2038 5. Depict, model the shape of, or use a label or package that depicts or models the shape of a  
2039 human, animal, vehicle, or fruit; and

2040 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed  
2041 by Board regulations.

2042 **§ 4.1-1406. Other health and safety requirements for edible marijuana products and other**  
2043 **marijuana products deemed applicable by the Authority; health and safety regulations.**

2044 A. In addition to all other applicable provisions of this subtitle, edible marijuana products and other  
2045 marijuana products deemed applicable by the Authority to be sold or offered for sale by a licensee to a  
2046 consumer:

2047 1. Shall be processed and manufactured by an approved source, as determined by § 3.2-5145.3;

2048 2. Shall comply with the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2;

2049 3. Shall be processed and manufactured in a manner that results in the cannabinoid content within  
2050 the product being homogeneous throughout the product or throughout each element of the product that  
2051 has a cannabinoid content;

2052 4. Shall be processed and manufactured in a manner that results in the amount of marijuana  
2053 concentrate within the product being homogeneous throughout the product or throughout each element of  
2054 the product that contains marijuana concentrate;

2055 5. Shall have a universal symbol stamped or embossed on the packaging of each product;

2056 6. Shall not contain more than 10 milligrams of tetrahydrocannabinol per serving of the product  
2057 and shall not contain more than 100 milligrams of tetrahydrocannabinol per package of the product;

2058 7. Shall not contain additives that (i) are toxic or harmful to human beings, (ii) are specifically  
2059 designed to make the product more addictive, (iii) contain alcohol or nicotine, (iv) are misleading to  
2060 consumers, or (v) are specifically designed to make the product appeal particularly to persons younger  
2061 than 21 years of age; and

2062 8. Shall not involve the addition of marijuana to a trademarked food or drink product, except when  
2063 the trademarked product is used as a component of or ingredient in the edible marijuana product and the  
2064 edible marijuana product is not advertised or described for sale as containing the trademarked product.

2065 B. The Board shall adopt any additional labeling, packaging, or other health and safety regulations  
2066 that it deems necessary for marijuana and marijuana products to be sold or offered for sale by a licensee  
2067 to a consumer in accordance with this subtitle. Regulations adopted pursuant to this subsection shall  
2068 establish mandatory health and safety standards applicable to the cultivation of marijuana, the processing  
2069 and manufacture of marijuana products, and the packaging and labeling of marijuana and marijuana  
2070 products sold by a licensee to a consumer. Such regulations shall address:

2071 1. Requirements for the storage, warehousing, and transportation of marijuana and marijuana  
2072 products by licensees;

2073 2. Sanitary standards for marijuana establishments, including sanitary standards for the processing  
2074 and manufacture of marijuana and marijuana products; and

2075 3. Limitations on the display of marijuana and marijuana products at retail marijuana stores.

2076 **§ 4.1-1601. Certification for use of cannabis for treatment.**

2077 A. A practitioner in the course of his professional practice may issue a written certification for the  
2078 use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease  
2079 determined by the practitioner to benefit from such use. The practitioner shall use his professional  
2080 judgment to determine the manner and frequency of patient care and evaluation and may employ the use  
2081 of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-  
2082 time interactive audiovisual technology. No practitioner may issue a written certification while such  
2083 practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A  
2084 pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to  
2085 patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis  
2086 to a minor, the written certification shall specifically authorize such dispensing. If not specifically included  
2087 on the initial written certification, authorization for botanical cannabis may be communicated verbally or  
2088 in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall  
2089 not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor,  
2090 cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis  
2091 dispensing facility, or provider of paraphernalia, excluding information on products or educational  
2092 materials on the benefits and risks of cannabis products.

2093 B. The written certification shall be on a form provided by the Authority. Such written certification  
2094 shall contain the name, address, and telephone number of the practitioner, the name and address of the  
2095 patient issued the written certification, the date on which the written certification was made, and the  
2096 signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to  
2097 subsection A shall expire one year after its issuance unless the practitioner provides in such written

2098 certification an earlier expiration. A written certification shall not be issued to a patient by more than one  
2099 practitioner during any given time period.

2100 C. No practitioner shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-  
2101 ~~248 or 18.2-248.1~~ for the issuance of a certification for the use of cannabis products for the treatment or  
2102 to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification  
2103 issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional  
2104 licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical  
2105 condition or otherwise violating the applicable standard of care for evaluating or treating medical  
2106 conditions.

2107 D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall  
2108 hold sufficient education and training to exercise appropriate professional judgment in the certification of  
2109 patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian,  
2110 or registered agent that is contingent on or encourages the person's decision to use a particular  
2111 pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family  
2112 members, employees, or coworkers; (iv) shall not provide product samples containing cannabis other than  
2113 those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a  
2114 pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients  
2115 to whom a practitioner may issue a written certification. The Board may report information to the  
2116 applicable licensing board on unusual patterns of certifications issued by a practitioner.

2117 E. No patient shall be required to physically present the written certification after the initial  
2118 dispensing by any pharmaceutical processor or cannabis dispensing facility under each written  
2119 certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an  
2120 electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities  
2121 shall electronically transmit on a monthly basis all new written certifications received by the  
2122 pharmaceutical processor or cannabis dispensing facility to the Authority.

2123 F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such  
2124 patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes

2125 of receiving cannabis products pursuant to a valid written certification. Such designated individual shall  
2126 register with the Board unless the individual's name listed on the patient's written certification. An  
2127 individual may, on the basis of medical need and in the discretion of the patient's registered practitioner,  
2128 be listed on the patient's written certification upon the patient's request. The Board may set a limit on the  
2129 number of patients for whom any individual is authorized to act as a registered agent.

2130 G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing  
2131 facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility  
2132 who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or  
2133 administer medications may accept delivery of the cannabis product on behalf of a patient or resident for  
2134 subsequent delivery to the patient or resident and may assist in the administration of the cannabis product  
2135 to the patient or resident as necessary.

2136 H. Information obtained under the patient certification or agent registration process shall be  
2137 confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information  
2138 Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the  
2139 Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii)  
2140 state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a  
2141 specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents,  
2142 for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained  
2143 by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a  
2144 patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2145 **§ 4.1-1604. Criminal liability; exceptions.**

2146 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be  
2147 prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, ~~18.2-248.1~~, or 18.2-250 for possession or  
2148 manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to  
2149 any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional  
2150 licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes  
2151 of producing cannabis products in accordance with the provisions of this chapter and Board regulations

2152 or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally  
2153 accepted cannabis industry standards in accordance with the provisions of this chapter and Board  
2154 regulations.

2155 **§ 5.1-13. Operation of aircraft while under influence of intoxicating liquors or drugs; reckless**  
2156 **operation.**

2157 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above or upon the  
2158 lands or waters of ~~this~~ the Commonwealth, while under the influence of intoxicating liquor or of any  
2159 narcotic or marijuana or any habit-forming drugs ~~shall be~~ is guilty of a felony and shall be confined in a  
2160 state correctional facility not less than one nor more than five years, or, in the discretion of the court or  
2161 jury trying the case, be confined in jail not exceeding ~~twelve~~ 12 months and fined not exceeding \$500, or  
2162 both such fine and imprisonment.

2163 Any person who ~~shall operate~~ operates any aircraft within the airspace over, above, or upon the  
2164 lands or waters of ~~this~~ the Commonwealth carelessly or heedlessly in willful or wanton disregard of the  
2165 rights or safety of others, or without due caution and circumspection and in a manner so as to endanger  
2166 any person or property, ~~shall be~~ is guilty of a misdemeanor.

2167 **§ 6.2-108. Financial services for licensed marijuana establishments.**

2168 A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as  
2169 provided in § 4.1-600.

2170 B. A bank or credit union that provides a financial service to a licensed marijuana establishment,  
2171 and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to  
2172 any state law or regulation solely for providing such a financial service or for further investing any income  
2173 derived from such a financial service.

2174 C. Nothing in this section shall require a bank or credit union to provide financial services to a  
2175 licensed marijuana establishment.

2176 **§ 9.1-1101. Powers and duties of the Department.**

2177 A. It shall be the responsibility of the Department to provide forensic laboratory services upon  
2178 request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical

2179 Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff,  
2180 or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department;  
2181 the head of any private police department that has been designated as a criminal justice agency by the  
2182 Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal  
2183 matter. The Department shall provide such services to any federal investigatory agency within available  
2184 resources.

2185 B. The Department shall:

2186 1. Provide forensic laboratory services to all law-enforcement agencies throughout the  
2187 Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the  
2188 Commonwealth as needed;

2189 2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et  
2190 seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; ~~and~~

2191 3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once  
2192 every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of  
2193 breath; and

2194 4. Determine the proper methods for detecting the concentration of tetrahydrocannabinol (THC)  
2195 in substances for the purposes of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 and §§ 54.1-3401 and 54.1-  
2196 3446. The testing methodology shall use post-decarboxylation testing or other equivalent method and shall  
2197 consider the potential conversion of tetrahydrocannabinol acid (THC-A) into THC. The test result shall  
2198 include the total available THC derived from the sum of the THC and THC-A content.

2199 C. The Department shall have the power and duty to:

2200 1. Receive, administer, and expend all funds and other assistance available for carrying out the  
2201 purposes of this chapter;

2202 2. Make and enter into all contracts and agreements necessary or incidental to the performance of  
2203 its duties and execution of its powers under this chapter including, but not limited to, contracts with the  
2204 United States, units of general local government or combinations thereof in Virginia or other states, and  
2205 with agencies and departments of the Commonwealth; and

2206 3. Perform such other acts as may be necessary or convenient for the effective performance of its  
2207 duties.

2208 D. The Director may appoint and employ a deputy director and such other personnel as are needed  
2209 to carry out the duties and responsibilities conferred by this chapter.

2210 **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of**  
2211 **finest; prepayment of local ordinances.**

2212 A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or  
2213 repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic  
2214 infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted.  
2215 Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any  
2216 parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic  
2217 offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without  
2218 court appearance whether or not he was involved in an accident. The prepayable fine amount for a  
2219 violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits,  
2220 as authorized in § 46.2-878.3.

2221 Such infractions shall not include:

2222 1. Indictable offenses;

2223 2. [Repealed.]

2224 3. Operation of a motor vehicle while under the influence of intoxicating liquor, marijuana, or a  
2225 narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating  
2226 liquor, marijuana, or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant  
2227 or in his custody or control;

2228 4. Reckless driving;

2229 5. Leaving the scene of an accident;

2230 6. Driving while under suspension or revocation of driving privileges;

2231 7. Driving without being licensed to drive.

2232 8. [Repealed.]

2233 B. An appearance may be made in person or in writing by mail to a clerk of court or in person  
2234 before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver  
2235 of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged,  
2236 with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his  
2237 signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record  
2238 of conviction will be sent to the Commissioner of the Department of Motor Vehicles.

2239 C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall  
2240 establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to  
2241 be imposed, designating each infraction specifically. The schedule, which may from time to time be  
2242 amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth.  
2243 Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying  
2244 individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall  
2245 be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance  
2246 with the provisions of this Code or any rules or regulations promulgated thereunder.

2247 D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state  
2248 law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection  
2249 B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of  
2250 each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be  
2251 imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such  
2252 order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit  
2253 court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform  
2254 in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit  
2255 the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be  
2256 prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the  
2257 provisions of this Code or any rules or regulations promulgated thereunder.

2258 **§ 16.1-260. Intake; petition; investigation.**

2259           A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing  
2260 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition  
2261 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the  
2262 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,  
2263 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,  
2264 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with  
2265 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign,  
2266 and file petitions and motions relating to the establishment, modification, or enforcement of support on  
2267 forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees  
2268 of a local department of social services may complete, sign, and file with the clerk, on forms approved by  
2269 the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning  
2270 hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or  
2271 review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf  
2272 of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be  
2273 in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child  
2274 shall be referred initially to the local department of social services in accordance with the provisions of  
2275 Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be  
2276 filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall  
2277 inquire whether the petitioner is receiving child support services or public assistance. No individual who  
2278 is receiving support services or public assistance shall be denied the right to file a petition or motion to  
2279 establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child  
2280 support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the  
2281 petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.  
2282 If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner  
2283 information on the possible availability of medical assistance through the Family Access to Medical  
2284 Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of  
2285 Medical Assistance Services.

2286 B. The appearance of a child before an intake officer may be by (i) personal appearance before the  
2287 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic  
2288 video and audio communication is used, an intake officer may exercise all powers conferred by law. All  
2289 communications and proceedings shall be conducted in the same manner as if the appearance were in  
2290 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or  
2291 executed by the officer or person to whom sent, and returned in the same manner, and with the same force,  
2292 effect, authority, and liability as an original document. All signatures thereon shall be treated as original  
2293 signatures. Any two-way electronic video and audio communication system used for an appearance shall  
2294 meet the standards as set forth in subsection B of § 19.2-3.1.

2295 When the court service unit of any court receives a complaint alleging facts which may be  
2296 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer,  
2297 may proceed informally to make such adjustment as is practicable without the filing of a petition or may  
2298 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish  
2299 probable cause for the issuance of the petition.

2300 An intake officer may proceed informally on a complaint alleging a child is in need of services, in  
2301 need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent  
2302 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for  
2303 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed  
2304 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for  
2305 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had  
2306 previously been proceeded against informally by intake or had been adjudicated delinquent for an offense  
2307 that would be a felony if committed by an adult.

2308 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258  
2309 and the attendance officer has provided documentation to the intake officer that the relevant school  
2310 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with  
2311 the court. The intake officer may defer filing the petition and proceed informally by developing a truancy  
2312 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated

2313 in need of supervision on more than two occasions for failure to comply with compulsory school  
2314 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication  
2315 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents,  
2316 guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy  
2317 plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or  
2318 other person standing in loco parentis participate in such programs, cooperate in such treatment, or be  
2319 subject to such conditions and limitations as necessary to ensure the juvenile's compliance with  
2320 compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the  
2321 appropriate public agency for the purpose of developing a truancy plan using an interagency  
2322 interdisciplinary team approach. The team may include qualified personnel who are reasonably available  
2323 from the appropriate department of social services, community services board, local school division, court  
2324 service unit, and other appropriate and available public and private agencies and may be the family  
2325 assessment and planning team established pursuant to § 2.2-5207. If at the end of the deferral period the  
2326 juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer  
2327 shall file the petition.

2328           Whenever informal action is taken as provided in this subsection on a complaint alleging that a  
2329 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a  
2330 plan for the juvenile, which may include restitution, the performance of community service, or on a  
2331 complaint alleging that a child has committed a delinquent act other than an act that would be a felony or  
2332 a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal  
2333 guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon  
2334 community resources and the circumstances which resulted in the complaint, (B) create an official record  
2335 of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the  
2336 juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant  
2337 that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon  
2338 facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case  
2339 of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any

2340 subsequent report from the youth justice diversion program alleging that the juvenile failed to comply  
2341 with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in  
2342 the filing of a petition with the court.

2343 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
2344 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has  
2345 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such  
2346 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
2347 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective  
2348 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,  
2349 or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-  
2350 152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file  
2351 a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in  
2352 need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause  
2353 does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile  
2354 or that the matter may be effectively dealt with by some agency other than the court, he may refuse to  
2355 authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order  
2356 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures  
2357 and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or  
2358 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-  
2359 152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits  
2360 applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2361 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
2362 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in  
2363 need of supervision have utilized or attempted to utilize treatment and services available in the community  
2364 and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake  
2365 officer determines that the parties have not attempted to utilize available treatment or services or have not  
2366 exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the

2367 child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to  
2368 receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that  
2369 the parties have made a reasonable effort to utilize available community treatment or services may he  
2370 permit the petition to be filed.

2371 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
2372 adult would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely  
2373 upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of  
2374 the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the  
2375 magistrate shall be filed within 10 days of the issuance of the written notification. The written notification  
2376 shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice  
2377 that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide  
2378 the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate  
2379 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic  
2380 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer  
2381 shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds  
2382 that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may  
2383 be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses  
2384 to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or  
2385 a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition  
2386 relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as  
2387 a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is  
2388 appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a  
2389 magistrate for a warrant.

2390 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,  
2391 the intake officer shall accept and file a petition founded upon the warrant.

2392 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition  
2393 which alleges facts of an offense which would be a felony if committed by an adult.

2394 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a  
2395 report with the division superintendent of the school division in which any student who is the subject of a  
2396 petition alleging that such student who is a juvenile has committed an act, wherever committed, which  
2397 would be a crime if committed by an adult, or that such student who is an adult has committed a crime  
2398 and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent  
2399 of the filing of the petition and the nature of the offense, if the violation involves:

- 2400 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-  
2401 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;
- 2402 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 2403 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
2404 Title 18.2;
- 2405 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 2406 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
2407 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
- 2408 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ Chapter 11 (§ ~~18.2-247 4.1-~~  
2409 1100 et seq.) ~~of Chapter 7 of Title 18.2 4.1;~~
- 2410 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
- 2411 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
- 2412 9. Robbery pursuant to § 18.2-58;
- 2413 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
- 2414 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
- 2415 12. An act of violence by a mob pursuant to § 18.2-42.1;
- 2416 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or
- 2417 14. A threat pursuant to § 18.2-60.

2418 The failure to provide information regarding the school in which the student who is the subject of  
2419 the petition may be enrolled shall not be grounds for refusing to file a petition.

2420 The information provided to a division superintendent pursuant to this section may be disclosed  
2421 only as provided in § 16.1-305.2.

2422 H. The filing of a petition shall not be necessary:

2423 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking  
2424 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating  
2425 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.

2426 In such cases the court may proceed on a summons issued by the officer investigating the violation in the  
2427 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident  
2428 may, at the scene of the accident or at any other location where a juvenile who is involved in such an  
2429 accident may be located, proceed on a summons in lieu of filing a petition.

2430 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection  
2431 H of § 16.1-241.

2432 3. In the case of a misdemeanor violation of § 4.1-1104, 18.2-266, 18.2-266.1, or 29.1-738 or the  
2433 commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a  
2434 parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a  
2435 parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring  
2436 the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be  
2437 in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a  
2438 violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood  
2439 or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through  
2440 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate  
2441 shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal  
2442 guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation  
2443 is to be tried. When a violation of § 4.1-305 or 4.1-1104 is charged by summons, the juvenile shall be  
2444 entitled to have the charge referred to intake for consideration of informal proceedings pursuant to  
2445 subsection B, provided that such right is exercised by written notification to the clerk not later than 10  
2446 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the

2447 officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake  
2448 on a form approved by the Supreme Court and make return of such service to the court. If the officer fails  
2449 to make such service or return, the court shall dismiss the summons without prejudice.

2450 4. In the case of offenses, other than marijuana-related offenses, which, if committed by an adult,  
2451 would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake  
2452 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation  
2453 in the same manner as provided by law for adults provided that notice of the summons to appear is mailed  
2454 by the investigating officer within five days of the issuance of the summons to a parent or legal guardian  
2455 of the juvenile.

2456 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court  
2457 of the jurisdiction granted it in § 16.1-241.

2458 **§ 16.1-273. Court may require investigation of social history and preparation of victim**  
2459 **impact statement.**

2460 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
2461 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation  
2462 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew  
2463 violations, the court before final disposition thereof may require an investigation, which (i) shall include  
2464 a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include  
2465 a social history of the physical, mental, and social conditions, including an assessment of any affiliation  
2466 with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and  
2467 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent  
2468 on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by  
2469 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  
2470 Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if  
2471 committed by an adult, or (c) a violation of § 4.1-1104, the court shall order the juvenile to undergo a drug  
2472 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,  
2473 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500

2474 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an  
2475 individual employed by or currently under contract to such agencies and who is specifically trained to  
2476 conduct such assessments under the supervision of such counselor.

2477 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the  
2478 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with  
2479 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant  
2480 physical, psychological, or economic injury as a result of the violation of law.

2481 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**  
2482 **offenses; truancy.**

2483 A. If a court has found facts which would justify a finding that a child at least 13 years of age at  
2484 the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar  
2485 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)  
2486 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;  
2487 (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  
2488 18.2-250 or a violation of § 4.1-1105; (v) the unlawful purchase, possession, or consumption of alcohol  
2489 in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public  
2490 school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar  
2491 ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a  
2492 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to  
2493 any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's  
2494 license. In addition to any other penalty authorized by this section, if the offense involves a violation  
2495 designated under clause (i) and the child was transporting a person 17 years of age or younger, the court  
2496 shall impose the additional fine and order community service as provided in § 18.2-270. If the offense  
2497 involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be  
2498 for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such  
2499 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a  
2500 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or

2501 (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by  
2502 a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's  
2503 license shall be delayed for a period of six months following the date he reaches the age of 16 and three  
2504 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose  
2505 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer  
2506 disposition of the delinquency charge until such time as the court disposes of the case pursuant to  
2507 subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose  
2508 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter  
2509 or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving  
2510 privileges shall be for a period of not less than 30 days, except when the offense involves possession of a  
2511 concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding  
2512 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in  
2513 which case the denial of driving privileges shall be for a period of two years unless the offense is  
2514 committed by a child under the age of 16 years and three months, in which event the child's ability to  
2515 apply for a driver's license shall be delayed for a period of two years following the date he reaches the age  
2516 of 16 and three months.

2517 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance  
2518 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
2519 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of  
2520 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period  
2521 of not less than 30 days following the date he reaches the age of 16 and three months.

2522 If the court finds a second or subsequent such offense, it may order the denial of a driver's license  
2523 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's  
2524 ability to apply for a driver's license for a period of one year following the date he reaches the age of 16  
2525 and three months, as may be appropriate.

2526 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation  
2527 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

2528 until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one  
2529 year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such  
2530 offense.

2531 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding  
2532 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held  
2533 in the physical custody of the court during any period of license denial.

2534 C. The court shall report any order issued under this section to the Department of Motor Vehicles,  
2535 which shall preserve a record thereof. The report and the record shall include a statement as to whether  
2536 the child was represented by or waived counsel or whether the order was issued pursuant to subsection  
2537 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2,  
2538 this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and  
2539 courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless  
2540 the proceeding results in an adjudication of guilt pursuant to subsection F.

2541 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a  
2542 driver's license until such time as is stipulated in the court order or until notification by the court of  
2543 withdrawal of the order of denial under subsection E.

2544 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
2545 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol  
2546 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may  
2547 set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or  
2548 (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon  
2549 such terms and conditions as the court may set forth.

2550 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a  
2551 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the  
2552 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set  
2553 forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license  
2554 shall be issued for travel to and from home and school when school-provided transportation is available

2555 and no restricted license shall be issued if the finding as to such child involves a violation designated  
2556 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense  
2557 designated in subsection A, a second finding by the court of failure to comply with school attendance and  
2558 meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a  
2559 refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set  
2560 forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate  
2561 the restrictions imposed and contain such information regarding the child as is reasonably necessary to  
2562 identify him. The child may operate a motor vehicle under the court order in accordance with its terms.  
2563 Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section  
2564 is guilty of a violation of § 46.2-301.

2565 E. Upon petition made at least 90 days after issuance of the order, the court may review and  
2566 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in  
2567 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed  
2568 and withdrawn until one year after its issuance.

2569 F. If the finding as to such child involves a first violation designated under clause (vii) of  
2570 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's  
2571 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or  
2572 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of  
2573 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal  
2574 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be  
2575 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill  
2576 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a  
2577 violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant  
2578 to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the  
2579 finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the  
2580 charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

2581 **§ 18.2-46.1. Definitions.**

2582 As used in this article, unless the context requires a different meaning:

2583 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or  
2584 subsection A of § 19.2-297.1.

2585 "Criminal street gang" means any ongoing organization, association, or group of three or more  
2586 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the  
2587 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or  
2588 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt  
2589 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of  
2590 which is an act of violence, provided such acts were not part of a common act or transaction.

2591 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,  
2592 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,  
2593 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-  
2594 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  
2595 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~~  
2596 ~~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  
2597 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense  
2598 under the laws of another state or territory of the United States, the District of Columbia, or the United  
2599 States.

2600 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V, and VI,"  
2601 "imitation controlled substance," and "counterfeit controlled substance" in Title 18.2.

2602 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V, and VI" are used  
2603 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-  
2604 3400 et seq.).

2605 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit  
2606 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever ~~which~~ that is not a  
2607 controlled substance subject to abuse, and:

2608 1. Which by overall dosage unit appearance, including color, shape, size, marking, and packaging  
2609 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any  
2610 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced  
2611 into commerce prior to the initial introduction into commerce of the controlled substance which it is  
2612 alleged to imitate; or

2613 2. Which by express or implied representations purports to act like a controlled substance as a  
2614 stimulant or depressant of the central nervous system and which is not commonly used or recognized for  
2615 use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless  
2616 marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

2617 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
2618 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
2619 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal  
2620 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the  
2621 packaging of the drug and its appearance in overall finished dosage form, promotional materials or  
2622 representations, oral or written, concerning the drug, and the methods of distribution of the drug and where  
2623 and how it is sold to the public.

2624 D. ~~The term "marijuana" when used in this article means any part of a plant of the genus Cannabis,~~  
2625 ~~whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or~~  
2626 ~~preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids.~~  
2627 ~~"Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, oil or~~  
2628 ~~cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts~~  
2629 ~~of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person~~  
2630 ~~registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-~~  
2631 ~~4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of~~  
2632 ~~Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial~~  
2633 ~~hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer,~~

2634 ~~ester, ether, salt or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into~~  
2635 ~~one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.~~

2636 ~~E.~~ The term "counterfeit controlled substance" means a controlled substance that, without  
2637 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the  
2638 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug  
2639 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or  
2640 distributor who did in fact so manufacture, process, pack or distribute such drug.

2641 ~~F.—E.~~ The term "tetrahydrocannabinol" means any naturally occurring or synthetic  
2642 tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such  
2643 salts, isomers, and salts of isomers is possible within the specific chemical designation and any  
2644 preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of  
2645 tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and  
2646 geometric isomers.

2647 ~~G.—F.~~ The term "total tetrahydrocannabinol" means the sum, after the application of any necessary  
2648 conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of  
2649 tetrahydrocannabinolic acid.

2650 ~~H.—G.~~ The Department of Forensic Science shall determine the proper methods for detecting the  
2651 concentration of tetrahydrocannabinol in substances for the purposes of this title, Chapter 11 (§ 4.1-1100  
2652 et seq.) of Title 4.1, and § 54.1-3401. The testing methodology shall use post-decarboxylation testing or  
2653 other equivalent method and shall consider the potential conversion of tetrahydrocannabinolic acid into  
2654 tetrahydrocannabinol.

2655 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**  
2656 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**  
2657 **prohibited; penalties.**

2658 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), ~~it shall be~~ is unlawful for  
2659 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or  
2660 distribute a controlled substance or an imitation controlled substance.

2661 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
2662 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
2663 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form  
2664 whatsoever included an exchange of or a demand for money or other property as consideration, and, if so,  
2665 whether the amount of such consideration was substantially greater than the reasonable value of such pill,  
2666 capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of  
2667 such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at  
2668 which over-the-counter substances of like chemical composition sell.

2669 C. Except as provided in subsection C1, any person who violates this section with respect to a  
2670 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than  
2671 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a  
2672 violation, and it is alleged in the warrant, indictment, or information that the person has been before  
2673 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense  
2674 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date  
2675 of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion  
2676 of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less  
2677 than five years, three years of which shall be a mandatory minimum term of imprisonment to be served  
2678 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2679 When a person is convicted of a third or subsequent offense under this subsection and it is alleged  
2680 in the warrant, indictment or information that he has been before convicted of two or more such offenses  
2681 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed  
2682 in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the  
2683 warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not  
2684 less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served  
2685 consecutively with any other sentence, and he shall be fined not more than \$500,000.

2686 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,  
2687 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1 million

2688 and imprisonment for five years to life, five years of which shall be a mandatory minimum term of  
2689 imprisonment to be served consecutively with any other sentence:

- 2690 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2691 2. 500 grams or more of a mixture or substance containing a detectable amount of:
  - 2692 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
  - 2693 derivatives of ecgonine or their salts have been removed;
  - 2694 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 2695 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 2696 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
  - 2697 referred to in subdivisions ~~2a through 2e~~ a, b, and c;
  - 2698 3. 250 grams or more of a mixture or substance described in subdivisions ~~2a 2 a through 2d 2 d~~  
2699 that contain cocaine base; or
  - 2700 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
  - 2701 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or
  - 2702 salts of its isomers.

2703 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection  
2704 shall not be applicable if the court finds that:

- 2705 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2706 b. The person did not use violence or credible threats of violence or possess a firearm or other  
2707 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2708 c. The offense did not result in death or serious bodily injury to any person;
- 2709 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and  
2710 was not engaged in a continuing criminal enterprise as defined in subsection I; and
- 2711 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
2712 Commonwealth all information and evidence the person has concerning the offense or offenses that were  
2713 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no  
2714 relevant or useful other information to provide or that the Commonwealth already is aware of the

2715 information shall not preclude a determination by the court that the defendant has complied with this  
2716 requirement.

2717 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,  
2718 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a  
2719 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,  
2720 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a  
2721 second conviction of such a violation, any such person may, in the discretion of the court or jury imposing  
2722 the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined  
2723 not more than \$500,000. When a person is convicted of a third or subsequent offense under this subsection  
2724 and it is alleged in the warrant, indictment, or information that he has been previously convicted of two  
2725 or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would  
2726 be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the  
2727 offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life  
2728 or for a period not less than 10 years, three years of which shall be a mandatory minimum term of  
2729 imprisonment to be served consecutively with any other sentence and he shall be fined not more than  
2730 \$500,000.

2731 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall  
2732 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner  
2733 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such  
2734 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual  
2735 expenses associated with cleanup, removal, or repair of the affected property. If the property that is  
2736 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is  
2737 property owned in whole or in part by the person convicted, the court shall order the person to pay to the  
2738 Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses  
2739 associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses  
2740 cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of certifying that

2741 any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according  
2742 to the guidelines established pursuant to § 32.1-11.7.

2743 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a  
2744 controlled substance classified in Schedule I or II only as an accommodation to another individual who is  
2745 not an inmate in a community correctional facility, local correctional facility or state correctional facility  
2746 as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from  
2747 any consideration received or expected nor to induce the recipient or intended recipient of the controlled  
2748 substance to use or become addicted to or dependent upon such controlled substance, he ~~shall be~~ is guilty  
2749 of a Class 5 felony.

2750 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the  
2751 prescription of a person authorized under this article to issue the same, which prescription has not been  
2752 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact  
2753 received by the pharmacist within one week of the time of filling the same, or if such violation consists of  
2754 a request by such authorized person for the filling by a pharmacist of a prescription which has not been  
2755 received in writing by the pharmacist and such prescription is, in fact, written at the time of such request  
2756 and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4  
2757 misdemeanor.

2758 E1. Any person who violates this section with respect to a controlled substance classified in  
2759 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-  
2760 248.5, ~~shall be~~ is guilty of a Class 5 felony.

2761 E2. Any person who violates this section with respect to a controlled substance classified in  
2762 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

2763 E3. Any person who proves that he gave, distributed or possessed with the intent to give or  
2764 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified  
2765 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual  
2766 who is not an inmate in a community correctional facility, local correctional facility or state correctional  
2767 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit

2768 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
2769 the controlled substance to use or become addicted to or dependent upon such controlled substance, is  
2770 guilty of a Class 1 misdemeanor.

2771 F. Any person who violates this section with respect to a controlled substance classified in  
2772 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled substance  
2773 classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2774 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~  
2775 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6  
2776 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection  
2777 that the defendant believed the imitation controlled substance to actually be a controlled substance.

2778 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to  
2779 manufacture, sell, give or distribute the following:

- 2780 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 2781 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
  - 2782 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
2783 derivatives of ecgonine or their salts have been removed;
  - 2784 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 2785 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 2786 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the  
2787 substances referred to in subdivisions a ~~through~~ b, and c;
- 2788 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains  
2789 cocaine base; or
- 2790 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~  
2791 ~~or~~
- 2792 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams  
2793 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
2794 or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1 million and

2795 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such  
2796 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a  
2797 prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or  
2798 credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense  
2799 or induce another participant in the offense to do so; (iii) the offense did not result in death or serious  
2800 bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others  
2801 in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this  
2802 section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the  
2803 Commonwealth all information and evidence the person has concerning the offense or offenses that were  
2804 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no  
2805 relevant or useful other information to provide or that the Commonwealth already is aware of the  
2806 information shall not preclude a determination by the court that the defendant has complied with this  
2807 requirement.

2808 H1. Any person who was the principal or one of several principal administrators, organizers or  
2809 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at  
2810 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from  
2811 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the  
2812 derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the  
2813 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or  
2814 distribute the following during any 12-month period of its existence:

2815 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a  
2816 detectable amount of heroin;

2817 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a  
2818 detectable amount of:

2819 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
2820 derivatives of ecgonine or their salts have been removed;

2821 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2822 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
2823 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the  
2824 substances referred to in subdivisions a ~~through~~, b, and c;

2825 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in  
2826 subdivision 2 ~~which~~ that contains cocaine base; or

2827 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~  
2828 ~~detectable amount of marijuana; or~~

2829 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of  
2830 its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a  
2831 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

2832 A conviction under this section shall be punishable by a fine of not more than \$1 million and  
2833 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2834 H2. Any person who was the principal or one of several principal administrators, organizers or  
2835 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross receipts  
2836 during any 12-month period of its existence from the manufacture, importation, or distribution of heroin  
2837 or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof  
2838 ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess  
2839 with the intent to manufacture, sell, give or distribute the following during any 12-month period of its  
2840 existence:

2841 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;  
2842 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

2843 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
2844 derivatives of ecgonine or their salts have been removed;

2845 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;  
2846 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or  
2847 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the  
2848 substances referred to in subdivisions a ~~through~~, b, and c;

2849 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which~~ that contains  
2850 cocaine base; or

2851 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~  
2852 ~~or~~

2853 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
2854 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,  
2855 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1  
2856 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
2857 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
2858 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
2859 with law-enforcement authorities.

2860 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he  
2861 violates any provision of this section, the punishment for which is a felony and either (ii) such violation  
2862 is a part of a continuing series of violations of this section which are undertaken by such person in concert  
2863 with five or more other persons with respect to whom such person occupies a position of organizer, a  
2864 supervisory position, or any other position of management, and from which such person obtains  
2865 substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or  
2866 other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in  
2867 association with any criminal street gang as defined in § 18.2-46.1.

2868 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses  
2869 any two or more different substances listed below with the intent to manufacture methamphetamine,  
2870 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,  
2871 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture  
2872 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,  
2873 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium  
2874 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,  
2875 or 2-propanone.

2876 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product  
2877 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or  
2878 salts of optical isomers.

2879 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

2880 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to  
2881 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of  
2882 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II  
2883 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~  
2884 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.  
2885 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years  
2886 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not  
2887 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a  
2888 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any  
2889 other sentence.

2890 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**  
2891 **substance abuse screening, assessment treatment and education programs or services; drug tests;**  
2892 **costs and fees; violations; discharge.**

2893 Whenever any person who has not previously been convicted of any criminal offense under this  
2894 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or  
2895 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for  
2896 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of  
2897 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts  
2898 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the  
2899 consent of the accused, may defer further proceedings and place him on probation upon terms and  
2900 conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk  
2901 of court has been provided with the fingerprint identification information or fingerprints of the person,

2902 taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and  
2903 photograph of the person be taken by a law-enforcement officer.

2904 As a term or condition, the court shall require the accused to undergo a substance abuse assessment  
2905 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or  
2906 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused  
2907 based upon consideration of the substance abuse assessment. The program or services may be located in  
2908 the judicial district in which the charge is brought or in any other judicial district as the court may provide.  
2909 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and  
2910 Developmental Services, by a similar program which is made available through the Department of  
2911 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or  
2912 (iii) an ASAP program certified by the Commission on VASAP.

2913 The court shall require the person entering such program under the provisions of this section to  
2914 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and  
2915 treatment, based upon the accused's ability to pay unless the person is determined by the court to be  
2916 indigent.

2917 As a condition of probation, the court shall require the accused (a) to successfully complete  
2918 treatment or education program or services, (b) to remain drug and alcohol free during the period of  
2919 probation and submit to such tests during that period as may be necessary and appropriate to determine if  
2920 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,  
2921 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours  
2922 of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising  
2923 probation agency or personnel of any program or agency approved by the supervising probation agency.

2924 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
2925 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
2926 court has been provided with the fingerprint identification information or fingerprints of such person, the  
2927 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under

2928 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this  
2929 section in subsequent proceedings.

2930 Notwithstanding any other provision of this section, whenever a court places an individual on  
2931 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction  
2932 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for  
2933 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

2934 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

2935 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the  
2936 consumption or use of a controlled substance, alcohol, or any combination of such substances.

2937 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
2938 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of  
2939 marijuana pursuant to ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, possession of a controlled substance pursuant  
2940 to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia  
2941 pursuant to § 54.1-3466 if:

2942 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,  
2943 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an  
2944 overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains  
2945 emergency medical attention for such individual, by contemporaneously reporting such overdose to a  
2946 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a  
2947 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith,  
2948 renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the  
2949 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing  
2950 an overdose while another individual seeks or obtains emergency medical attention in accordance with  
2951 this subdivision;

2952 2. Such individual remains at the scene of the overdose or at any alternative location to which he  
2953 or the person requiring emergency medical attention has been transported until a law-enforcement officer  
2954 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose

2955 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set  
2956 forth herein;

2957 3. Such individual identifies himself to the law-enforcement officer who responds to the report of  
2958 the overdose; and

2959 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
2960 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or  
2961 assistance.

2962 C. The provisions of this section shall not apply to any person who seeks or obtains emergency  
2963 medical attention for himself or another individual, to a person experiencing an overdose when another  
2964 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency  
2965 care or assistance to an individual experiencing an overdose while another person seeks or obtains  
2966 emergency medical attention during the execution of a search warrant or during the conduct of a lawful  
2967 search or a lawful arrest.

2968 D. This section does not establish protection from arrest or prosecution for any individual or  
2969 offense other than those listed in subsection B.

2970 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
2971 determined that the person arrested was immune from prosecution under this section.

2972 **§ 18.2-251.1:1. Possession or distribution of cannabis oil; public schools.**

2973 No school nurse employed by a local school board, person employed by a local health department  
2974 who is assigned to the public school pursuant to an agreement between the local health department and  
2975 the school board, or other person employed by or contracted with a local school board to deliver health-  
2976 related services shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, ~~18.2-~~  
2977 ~~248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil for storing, dispensing, or  
2978 administering cannabis oil, in accordance with a policy adopted by the local school board, to a student  
2979 who has been issued a valid written certification for the use of cannabis oil in accordance with § 4.1-1601.

2980 **§ 18.2-251.1:2. Possession or distribution of cannabis oil; nursing homes and certified**  
2981 **nursing facilities; hospice and hospice facilities; assisted living facilities.**

2982 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
2983 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted  
2984 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  
2985 or distribution of cannabis oil for the purposes of storing, dispensing, or administering cannabis oil to a  
2986 patient or resident who has been issued a valid written certification for the use of cannabis oil in  
2987 accordance with § 4.1-1601.

2988 **§ 18.2-251.1:3. Possession or distribution of cannabis oil, or industrial hemp; laboratories;**  
2989 **Department of Agriculture and Consumer Services, Department of Law employees.**

2990 A. No person employed by an analytical laboratory to retrieve, deliver, or possess cannabis oil or  
2991 industrial hemp samples from a permitted pharmaceutical processor, a registered industrial hemp grower,  
2992 a federally licensed hemp producer, or a registered industrial hemp processor for the purpose of  
2993 performing required testing shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or §  
2994 18.2-248,~~18.2-248.1~~, 18.2-250, or 18.2-255 for the possession or distribution of cannabis oil or industrial  
2995 hemp or for storing cannabis oil or industrial hemp for testing purposes in accordance with regulations  
2996 promulgated by the Board of ~~Pharmacy~~ and the Board of Agriculture and Consumer Services.

2997 B. No employee of the Department of Agriculture and Consumer Services or of the Department of  
2998 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-  
2999 248.01,~~18.2-248.1~~, or 18.2-250 for the possession or distribution of industrial hemp or any substance  
3000 containing tetrahydrocannabinol when possession of industrial hemp or any substance containing  
3001 tetrahydrocannabinol is necessary in the performance of his duties.

3002 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**  
3003 **testing, and treatment or education.**

3004 The trial judge or court trying the case of any person found guilty of a criminal violation of any  
3005 law concerning the use, in any manner, of drugs, controlled substances, narcotics,~~marijuana~~, noxious  
3006 chemical substances and like substances shall condition any suspended sentence by first requiring such  
3007 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such  
3008 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing

3009 shall be conducted by the supervising probation agency or by personnel of any program or agency  
3010 approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid  
3011 by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order  
3012 the person, as a condition of any suspended sentence, to undergo such treatment or education for substance  
3013 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance  
3014 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the  
3015 Department of Behavioral Health and Developmental Services, by a similar program or services available  
3016 through the Department of Corrections if the court imposes a sentence of one year or more or, if the court  
3017 imposes a sentence of 12 months or less, by a similar program or services available through a local or  
3018 regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an  
3019 ASAP program certified by the Commission on VASAP.

3020 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3021 A. Whenever any person who has not previously been convicted of any criminal offense under this  
3022 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana,~~  
3023 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for  
3024 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law  
3025 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana,~~ noxious chemical  
3026 substances, and like substances, the judge or court shall require such person to undergo a substance abuse  
3027 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include  
3028 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid  
3029 by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court  
3030 shall also order the person to undergo such treatment or education for substance abuse, if available, as the  
3031 judge or court deems appropriate based upon consideration of the substance abuse assessment. The  
3032 treatment or education shall be provided by a program or agency licensed by the Department of Behavioral  
3033 Health and Developmental Services or by a similar program or services available through the Department  
3034 of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of  
3035 12 months or less, by a similar program or services available through a local or regional jail, a local

3036 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program  
3037 certified by the Commission on VASAP.

3038 B. The court trying the case of any person alleged to have committed any criminal offense  
3039 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in  
3040 which the commission of the offense was motivated by or closely related to the use of drugs and  
3041 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of  
3042 treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment,  
3043 such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed  
3044 by the Department of Behavioral Health and Developmental Services, if space is available in such facility,  
3045 for a period of time not in excess of the maximum term of imprisonment specified as the penalty for  
3046 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of  
3047 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as  
3048 confinement in a penal institution and the person so committed may be convicted of escape if he leaves  
3049 the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction  
3050 where the treatment facility is located or the jurisdiction where the person was sentenced to commitment.  
3051 The court may revoke such commitment at any time and transfer the person to an appropriate state or local  
3052 correctional facility. Upon presentation of a certified statement from the director of the treatment facility  
3053 to the effect that the confined person has successfully responded to treatment, the court may release such  
3054 confined person prior to the termination of the period of time for which such person was confined and  
3055 may suspend the remainder of the term upon such conditions as the court may prescribe.

3056 C. The court trying a case in which commission of the criminal offense was related to the  
3057 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse  
3058 screening and assessment, that such defendant is in need of treatment, may commit, based upon a  
3059 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the  
3060 treatment of persons with substance abuse licensed by the Department of Behavioral Health and  
3061 Developmental Services, if space is available in such facility, for a period of time not in excess of the  
3062 maximum term of imprisonment specified as the penalty for conviction. Confinement under such

3063 commitment shall be, in all regards, treated as confinement in a penal institution and the person so  
3064 committed may be convicted of escape if he leaves the place of commitment without authority. The court  
3065 may revoke such commitment at any time and transfer the person to an appropriate state or local  
3066 correctional facility. Upon presentation of a certified statement from the director of the treatment facility  
3067 to the effect that the confined person has successfully responded to treatment, the court may release such  
3068 confined person prior to the termination of the period of time for which such person was confined and  
3069 may suspend the remainder of the term upon such conditions as the court may prescribe.

3070 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3071 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1~~, it  
3072 ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)  
3073 distribute any drug classified in Schedule I, II, III<sub>2</sub> or IV ~~or marijuana~~ to any person under 18 years of age  
3074 who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such  
3075 distribution of any drug classified in Schedule I, II, III<sub>2</sub> or IV ~~or marijuana~~. Any person violating this  
3076 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10  
3077 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a  
3078 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~  
3079 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~  
3080 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3081 B. It ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally  
3082 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three  
3083 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation  
3084 controlled substance. Any person violating this provision ~~shall be~~ is guilty of a Class 6 felony.

3085 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use**  
3086 **in administering controlled substances to minors; penalty.**

3087 It ~~shall be~~ is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale  
3088 to a minor any book, pamphlet, periodical<sub>2</sub> or other printed matter ~~which~~ that he knows advertises for sale

3089 any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,  
3090 administering, preparing, or growing ~~marijuana~~ or a controlled substance.

3091 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**  
3092 **penalty.**

3093 A. It ~~shall be~~ is unlawful for any person to manufacture, sell or distribute or possess with intent to  
3094 sell, give, or distribute any controlled substance, or imitation controlled substance, ~~or marijuana~~ while:

3095 1. Upon the property, including buildings and grounds, of any public or private elementary or  
3096 secondary school, any institution of higher education, or any clearly marked licensed child day center as  
3097 defined in § 22.1-289.02;

3098 2. Upon public property or any property open to public use within 1,000 feet of the property  
3099 described in subdivision 1;

3100 3. On any school bus as defined in § 46.2-100;

3101 4. Upon a designated school bus stop, or upon either public property or any property open to public  
3102 use which is within 1,000 feet of such school bus stop, during the time when school children are waiting  
3103 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

3104 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated  
3105 recreation or community center facility or any public library; or

3106 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or  
3107 property open to public use within 1,000 feet of such ~~an institution~~ facility. It is a violation of the  
3108 provisions of this section if the person possessed the controlled substance, or imitation controlled  
3109 substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the  
3110 person intended to sell, give, or distribute the controlled substance, or imitation controlled substance, ~~or~~  
3111 ~~marijuana~~. Nothing in this section shall prohibit the authorized distribution of controlled substances.

3112 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the  
3113 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor  
3114 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for  
3115 an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§

3116 54.1-3400 et seq.) ~~or more than one half ounce of marijuana~~ shall be punished by a mandatory minimum  
3117 term of imprisonment of one year to be served consecutively with any other sentence. However, if such  
3118 person proves that he sold such controlled substance ~~or marijuana~~ only as an accommodation to another  
3119 individual and not with intent to profit thereby from any consideration received or expected nor to induce  
3120 the recipient or intended recipient of the controlled substance ~~or marijuana~~ to use or become addicted to  
3121 or dependent upon such controlled substance ~~or marijuana~~, he is guilty of a Class 1 misdemeanor.

3122 C. If a person commits an act violating the provisions of this section, and the same act also violates  
3123 another provision of law that provides for penalties greater than those provided for by this section, then  
3124 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of  
3125 law or the imposition of any penalties provided for thereby.

3126 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3127 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
3128 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with  
3129 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,  
3130 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances  
3131 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,  
3132 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,  
3133 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.  
3134 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant  
3135 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1  
3136 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3137 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3138 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
3139 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially  
3140 altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful  
3141 entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing  
3142 or distributing controlled substances ~~or marijuana~~, and (iii) the object of a valid search warrant, shall be

3143 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty  
3144 of a Class 5 felony.

3145 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**  
3146 **fraud, deceit or forgery.**

3147 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or  
3148 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,  
3149 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of  
3150 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the  
3151 giving of a false address.

3152 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any  
3153 information from, or willfully make a false statement in, any prescription, order, report, record, or other  
3154 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1.~~

3155 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of  
3156 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or issued  
3157 to another person.

3158 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~  
3159 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist,  
3160 physician, dentist, veterinarian or other authorized person.

3161 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false  
3162 or forged written order.

3163 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or receptacle  
3164 containing any controlled substance.

3165 G. This section shall not apply to officers and employees of the United States, of this  
3166 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their  
3167 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or  
3168 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for  
3169 investigative, research or analytical purposes and who are acting in the course of their employment;

3170 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic  
3171 Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized  
3172 representatives file with the Board such information as the Board may deem appropriate.

3173 H. Except as otherwise provided in this subsection, any person who shall violate any provision  
3174 herein ~~shall be~~ is guilty of a Class 6 felony.

3175 Whenever any person who has not previously been convicted of any offense under this article or  
3176 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
3177 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of  
3178 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not  
3179 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a  
3180 finding of guilt, the court may place him on probation upon terms and conditions.

3181 As a term or condition, the court shall require the accused to be evaluated and enter a treatment  
3182 and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs  
3183 of the accused. This program may be located in the judicial circuit in which the charge is brought or in  
3184 any other judicial circuit as the court may provide. The services shall be provided by a program certified  
3185 or licensed by the Department of Behavioral Health and Developmental Services. The court shall require  
3186 the person entering such program under the provisions of this section to pay all or part of the costs of the  
3187 program, including the costs of the screening, evaluation, testing and education, based upon the person's  
3188 ability to pay unless the person is determined by the court to be indigent.

3189 As a condition of supervised probation, the court shall require the accused to remain drug free  
3190 during the period of probation and submit to such tests during that period as may be necessary and  
3191 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of  
3192 any screening, evaluation, and education program to which the person is referred or by the supervising  
3193 agency.

3194 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to  
3195 report to the original arresting law-enforcement agency to submit to fingerprinting.

3196           Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony  
 3197 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court  
 3198 shall find the defendant guilty of a Class 1 misdemeanor.

3199           **§ 18.2-265.1. Definition.**

3200           As used in this article, the term "drug paraphernalia" means all equipment, products, and materials  
 3201 of any kind which are either designed for use or which are intended by the person charged with violating  
 3202 § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,  
 3203 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,  
 3204 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into  
 3205 the human body ~~marijuana~~ or a controlled substance. It includes, but is not limited to:

3206           1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or  
 3207 harvesting of ~~marijuana~~ or any species of plant which is a controlled substance or from which a controlled  
 3208 substance can be derived;

3209           2. Kits intended for use or designed for use in manufacturing, compounding, converting,  
 3210 producing, processing, or preparing ~~marijuana~~ or controlled substances;

3211           3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~  
 3212 or any species of plant ~~which~~ that is a controlled substance;

3213           4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength  
 3214 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to  
 3215 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3216           5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or  
 3217 controlled substances;

3218           6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use  
 3219 or designed for use in cutting controlled substances;

3220           7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~  
 3221 ~~from, or in otherwise cleaning or refining, marijuana;~~

- 3222            ~~8.~~ Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in  
3223 compounding controlled substances;
- 3224            ~~9-8.~~ Capsules, balloons, envelopes, and other containers intended for use or designed for use in  
3225 packaging small quantities of ~~marijuana~~ or controlled substances;
- 3226            ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing  
3227 ~~marijuana~~ or controlled substances;
- 3228            ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in  
3229 parenterally injecting controlled substances into the human body;
- 3230            ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing  
3231 ~~marijuana, cocaine, hashish, or hashish oil~~ into the human body, such as:
- 3232            a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent  
3233 screens, ~~hashish heads~~, or punctured metal bowls;
- 3234            b. Water pipes;
- 3235            c. Carburetion tubes and devices;
- 3236            d. Smoking and carburetion masks;
- 3237            e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that  
3238 has become too small or too short to be held in the hand;
- 3239            f. Miniature cocaine spoons, and cocaine vials;
- 3240            g. Chamber pipes;
- 3241            h. Carburetor pipes;
- 3242            i. Electric pipes;
- 3243            j. Air-driven pipes;
- 3244            k. Chillums;
- 3245            l. Bongs;
- 3246            m. Ice pipes or chillers.
- 3247            **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3248 In determining whether an object is drug paraphernalia, the court may consider, in addition to all  
3249 other relevant evidence, the following:

- 3250 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 3251 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually  
3252 known to the accused;
- 3253 3. Instructions, oral or written, provided with the object concerning its use;
- 3254 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;
- 3255 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 3256 6. The manner in which the object is displayed for sale;
- 3257 7. Whether the accused is a legitimate supplier of like or related items to the community, such as  
3258 a licensed distributor or dealer of tobacco products;
- 3259 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the  
3260 business enterprise;
- 3261 9. The existence and scope of legitimate uses for the object in the community;
- 3262 10. Expert testimony concerning its use or the purpose for which it was designed; and
- 3263 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should  
3264 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone  
3265 in control of the object, as to a direct violation of this article shall not prevent a finding that the object is  
3266 intended for use or designed for use as drug paraphernalia.

3267 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3268 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
3269 circumstances where one reasonably should know, that it is either designed for use or intended by such  
3270 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
3271 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
3272 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a Class  
3273 1 misdemeanor.

3274 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug  
3275 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a Class  
3276 6 felony.

3277 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor  
3278 ~~shall be~~ is guilty of a Class 1 misdemeanor.

3279 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3280 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony  
3281 violation of § 18.2-248 ~~or subdivision (a) 2 or 3 of § 18.2-248.1~~, has in his possession a firearm or knife  
3282 and is wearing body armor designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~  
3283 is guilty of a Class 4 felony.

3284 **§ 18.2-308.012. Prohibited conduct.**

3285 A. Any person permitted to carry a concealed handgun who is under the influence of alcohol,  
3286 marijuana, or illegal drugs while carrying such handgun in a public place is guilty of a Class 1  
3287 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to  
3288 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of  
3289 § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,  
3290 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.  
3291 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly  
3292 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to  
3293 apply for a concealed handgun permit for a period of five years.

3294 B. No person who carries a concealed handgun onto the premises of any restaurant or club as  
3295 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption  
3296 has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an  
3297 alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises  
3298 of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor.  
3299 However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

3300 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3301 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance  
3302 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously  
3303 with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and  
3304 constitutes a separate and distinct felony.

3305 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance  
3306 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with  
3307 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class  
3308 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be  
3309 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate  
3310 and apart from, and shall be made to run consecutively with, any punishment received for the commission  
3311 of the primary felony.

3312 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle,  
3313 or other firearm or display such weapon in a threatening manner while committing or attempting to commit  
3314 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or  
3315 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-  
3316 3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6 felony, and  
3317 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a  
3318 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart  
3319 from, and shall be made to run consecutively with, any punishment received for the commission of the  
3320 primary felony.

3321 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**  
3322 **penalties.**

3323 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney  
3324 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed  
3325 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to  
3326 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the

3327 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-  
3328 6555, he is guilty of a Class 1 misdemeanor.

3329 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
3330 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-  
3331 enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in  
3332 his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1  
3333 misdemeanor.

3334 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
3335 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, ~~any~~ or law-enforcement officer,  
3336 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any  
3337 court relating to a violation of or conspiracy to violate § 18.2-248 ~~or subdivision (a)(3), (b) or (c) of §~~  
3338 ~~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~~  
3339 violent felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3340 D. Any person who knowingly and willfully makes any materially false statement or representation  
3341 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the  
3342 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3343 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from  
3344 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this  
3345 subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-  
3346 enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer  
3347 communicates to the person that he is under arrest and (a) the officer has the legal authority and the  
3348 immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such  
3349 communication knows or should know that he is not free to leave.

3350 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3351 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner  
3352 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of  
3353 the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the

3354 Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ that is a controlled  
3355 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or marijuana  
3356 is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver  
3357 or conspire to deliver to any such prisoner or confined or committed person, firearms, ammunitions, or  
3358 explosives of any nature is guilty of a Class 3 felony.

3359 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3360 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
3361 **authorizing interception of communications.**

3362 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates  
3363 in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a  
3364 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to  
3365 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral  
3366 communications by the Department of State Police, when such interception may reasonably be expected  
3367 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,  
3368 any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.)  
3369 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  
3370 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  
3371 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit  
3372 any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for  
3373 authorization for the observation or monitoring of the interception by a police department of a county or  
3374 city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be  
3375 made, and such order may be granted, in conformity with the provisions of § 19.2-68.

3376 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3377 1. In the case of an application for a wire or electronic interception, a judge of competent  
3378 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable  
3379 cause to believe that an offense was committed, is being committed, or will be committed or the person  
3380 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic

3381 communication system, maintain an address or a post office box, or are making the communication within  
3382 the territorial jurisdiction of the court.

3383 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have  
3384 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an  
3385 offense was committed, is being committed, or will be committed or the physical location of the oral  
3386 communication to be intercepted is within the territorial jurisdiction of the court.

3387 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception  
3388 of a wire or electronic communication, such communication shall be deemed to be intercepted in the  
3389 jurisdiction where the order is entered, regardless of the physical location or the method by which the  
3390 communication is captured or routed to the monitoring location.

3391 **§ 19.2-81. Arrest without warrant authorized in certain cases.**

3392 A. The following officers shall have the powers of arrest as provided in this section:

- 3393 1. Members of the State Police force of the Commonwealth;
- 3394 2. Sheriffs of the various counties and cities, and their deputies;
- 3395 3. Members of any county police force or any duly constituted police force of any city or town of  
3396 the Commonwealth;
- 3397 4. The Commissioner, members and employees of the Marine Resources Commission granted the  
3398 power of arrest pursuant to § 28.2-900;
- 3399 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 3400 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and  
3401 petty officers authorized under § 29.1-205 to make arrests;
- 3402 7. Conservation officers appointed pursuant to § 10.1-115;
- 3403 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles  
3404 appointed pursuant to § 46.2-217;
- 3405 9. Special agents of the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis  
3406 Control Authority;

3407 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title  
3408 23.1; and

3409 11. Members of the Division of Capitol Police.

3410 B. Such officers may arrest without a warrant any person who commits any crime in the presence  
3411 of the officer and any person whom he has reasonable grounds or probable cause to suspect of having  
3412 committed a felony not in his presence.

3413 Such officers may arrest without a warrant any person whom the officer has probable cause to  
3414 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of §  
3415 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in  
3416 violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person  
3417 arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting  
3418 officer.

3419 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as  
3420 defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved  
3421 in such accident has been transported, or in the apprehension of any person charged with the theft of any  
3422 motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to  
3423 believe, based upon personal investigation, including information obtained from eyewitnesses, that a  
3424 crime has been committed by any person then and there present, apprehend such person without a warrant  
3425 of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location  
3426 where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement  
3427 officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

3428 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any  
3429 location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle,  
3430 watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or  
3431 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the  
3432 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,  
3433 within three hours of the alleged offense, arrest without a warrant at any location any person whom the

3434 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued  
3435 pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

3436 E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in  
3437 another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout,  
3438 facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram,  
3439 computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a  
3440 reasonably accurate description of such person wanted and the crime alleged.

3441 F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not  
3442 committed in his presence when the officer receives a radio message from his department or other law-  
3443 enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

3444 G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in  
3445 their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance,  
3446 (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)  
3447 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137,  
3448 when such property is located on premises used for business or commercial purposes, or a similar local  
3449 ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who  
3450 observed the alleged offense. The arresting officer may issue a summons to any person arrested under this  
3451 section for a misdemeanor violation involving shoplifting.

3452 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3453 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §  
3454 19.2-81, persons for crimes involving:

- 3455 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3456 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3457 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 4.1-1117, 18.2-474, or ~~§ 18.2-~~  
3458 474.1; and
- 3459 ~~(d)~~ 4. Any other criminal offense ~~which~~ that may contribute to the disruption of the safety, welfare,  
3460 or security of the population of a correctional institution.

**3461 § 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

**3462** A. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
**3463** officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is  
**3464** known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher  
**3465** or any other employee in any local school division in the Commonwealth for a felony or a Class 1  
**3466** misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division  
**3467** safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such  
**3468** person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the  
**3469** report required pursuant to this subsection shall be utilized by the local school division solely to implement  
**3470** the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

**3471** B. The report required pursuant to subsection A shall be transmitted to the division safety official  
**3472** (i) via certified mail, return receipt requested, to the mailing address identified by the division  
**3473** superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and  
**3474** email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any  
**3475** certified mail return receipt shall be retained in the case file.

**3476** C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to  
**3477** Virginia Employment Commission records, each arresting official shall request in writing that the Virginia  
**3478** Employment Commission provide the name of the current employer of each person arrested for an offense  
**3479** set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

**3480** D. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
**3481** officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as  
**3482** practicable, with the division superintendent of the school division in which the student is enrolled upon  
**3483** arresting a person who is known or discovered by the arresting official to be a student age 18 or older in  
**3484** any local school division in the Commonwealth for:

**3485** 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-  
**3486** 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;

**3487** 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3488 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
3489 Title 18.2;

3490 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

3491 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
3492 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

3493 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 4 Chapter 11~~ (~~§ 18.2-247 4.1-~~  
3494 1100 et seq.) ~~of Chapter 7 of Title 18.2~~ 4.1;

3495 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

3496 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

3497 9. Robbery pursuant to § 18.2-58;

3498 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

3499 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

3500 12. An act of violence by a mob pursuant to § 18.2-42.1; or

3501 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3502 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3503 A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article  
3504 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement  
3505 officer shall be permitted to testify as to the results of field tests that have been approved by the Department  
3506 of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§  
3507 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing  
3508 is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§~~ §§ 4.1-600 and  
3509 18.2-247.

3510 B. In any trial for a violation of ~~§ 4.1-1105.1~~ 4.1-1104 or 4.1-1105, any law-enforcement officer  
3511 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable  
3512 by the Department of Forensic Science pursuant to regulations adopted in accordance with the  
3513 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity  
3514 of which is at issue, is marijuana provided the defendant has been given written notice of his right to

3515 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall  
3516 be provided to the defendant prior to trial.

3517 In any case in which the person accused of a violation of § ~~4.1-1105.1~~ 4.1-1104 or 4.1-1105, or  
3518 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he  
3519 may, by motion prior to trial before the court in which the charge is pending, request such a chemical  
3520 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of  
3521 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 9.1-1101 and shall prescribe in its order  
3522 the method of custody, transfer, and return of evidence submitted for chemical analysis.

3523 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3524 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
3525 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of  
3526 the final judgment order, provided substantial assistance in investigating or prosecuting another person  
3527 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-  
3528 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-  
3529 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  
3530 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in  
3531 the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations  
3532 as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i).  
3533 In determining whether the defendant has provided substantial assistance pursuant to the provisions of  
3534 this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the  
3535 defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance  
3536 rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by  
3537 the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger  
3538 or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the  
3539 defendant's assistance. If the motion is made more than one year after entry of the final judgment order,  
3540 the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not  
3541 known to the defendant until more than one year after entry of the final judgment order, (2) information

3542 provided by the defendant within one year of entry of the final judgment order but that did not become  
3543 useful to the Commonwealth until more than one year after entry of the final judgment order, or (3)  
3544 information the usefulness of which could not reasonably have been anticipated by the defendant until  
3545 more than one year after entry of the final judgment order and which was promptly provided to the  
3546 Commonwealth by the defendant after its usefulness was reasonably apparent.

3547       **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**  
3548 **transactions.**

3549       A. The following property shall be subject to lawful seizure by any officer charged with enforcing  
3550 the provisions of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter  
3551 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles,  
3552 and all other personal and real property of any kind or character, used in substantial connection with (a)  
3553 the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or  
3554 distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or~~  
3555 ~~possession with intent to distribute marijuana in violation of subdivisions (a)(2), (a)(3) and (c) of § 18.2-~~  
3556 ~~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  
3557 value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-  
3558 248 or for marijuana in violation of § ~~18.2-248.1~~ 4.1-1103 or for a controlled substance or marijuana in  
3559 violation of § 4.1-1117 or 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to  
3560 such an exchange, together with any interest or profits derived from the investment of such money or other  
3561 property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the  
3562 minimum prescribed punishment for the violation is a term of not less than five years.

3563       B. All seizures and forfeitures under this section shall be governed by the procedures contained in  
3564 Chapter 22.1 (§ 19.2-386.1 et seq.).

3565       **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3566       A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the  
3567 lawful possession of which is not established or the title to which cannot be ascertained, which have come  
3568 into the custody of a peace officer or have been seized in connection with violations of Chapter 11 (§ 4.1-

3569 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  
3570 as follows:

3571 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State  
3572 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of  
3573 any such substance or paraphernalia to the Department of Forensic Science, the Department of State  
3574 Police, or to such police department or sheriff's office for research and training purposes and for  
3575 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement  
3576 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3577 2. In the event no application is made under subdivision 1, the court shall order the destruction of  
3578 all such substances or paraphernalia, which order shall state the existence and nature of the substance or  
3579 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the  
3580 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.  
3581 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be  
3582 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for  
3583 the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath,  
3584 reporting the time, place and manner of destruction shall be made to the court by the officer to whom the  
3585 order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal  
3586 prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima  
3587 facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or  
3588 otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in  
3589 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written  
3590 consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a  
3591 statement under oath, reporting a description of the substances and paraphernalia destroyed and the time,  
3592 place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the  
3593 order is directed.

3594 B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter  
3595 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

3596 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-  
3597 386.24.

3598 C. The amount of any specific controlled substance, or imitation controlled substance, retained by  
3599 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five  
3600 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled  
3601 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not  
3602 result in the requesting agency's exceeding the limits allowed by this subsection.

3603 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance,  
3604 or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an  
3605 inventory of such substance on a monthly basis, which shall include a description and weight of the  
3606 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research  
3607 and training purposes. A written report outlining the details of the inventory shall be made to the chief  
3608 law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency  
3609 shall detail the substances that were used for research and training pursuant to a court order in the  
3610 immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with  
3611 a statement prepared under oath, reporting a description of the substance destroyed, and the time, place,  
3612 and manner of destruction.

3613 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3614 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in  
3615 connection with any prosecution or investigation under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or  
3616 Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds  
3617 of the substance randomly selected from the seized substance for representative purposes as evidence and  
3618 destroy the remainder of the seized substance.

3619 Before any destruction is carried out under this section, the law-enforcement agency shall cause  
3620 the material seized to be photographed with identification case numbers or other means of identification  
3621 and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested  
3622 party, if known, or his attorney, at least five days in advance that the photography will take place and that

3623 they may be present. Prior to any destruction under this section, the law-enforcement agency shall also  
3624 notify the accused or other interested party, if known, and his attorney at least seven days prior to the  
3625 destruction of the time and place the destruction will occur. Any notice required under the provisions of  
3626 this section shall be by first-class mail to the last known address of the person required to be notified. In  
3627 addition to the substance retained for representative purposes as evidence, all photographs and records  
3628 made under this section and properly identified shall be admissible in any court proceeding for any  
3629 purposes for which the seized substance itself would have been admissible.

3630 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
3631 **substances, etc.**

3632 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency  
3633 to take into its custody or to maintain custody of substantial quantities of any controlled substances,  
3634 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal  
3635 prosecution under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Chapter 7 (§ 18.2-247 et seq.) of Title  
3636 18.2. The court in its order may make provision for ensuring integrity of these items until further order of  
3637 the court.

3638 **§ 19.2-389. Dissemination of criminal history record information.**

3639 A. Criminal history record information shall be disseminated, whether directly or through an  
3640 intermediary, only to:

3641 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
3642 purposes of the administration of criminal justice and the screening of an employment application or  
3643 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
3644 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-  
3645 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,  
3646 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes  
3647 of this subdivision, criminal history record information includes information sent to the Central Criminal  
3648 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-  
3649 time employee of the State Police, a police department or sheriff's office that is a part of or administered

3650 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and  
3651 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for  
3652 the purposes of the administration of criminal justice;

3653 2. Such other individuals and agencies that require criminal history record information to  
3654 implement a state or federal statute or executive order of the President of the United States or Governor  
3655 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon  
3656 such conduct, except that information concerning the arrest of an individual may not be disseminated to a  
3657 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest  
3658 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3659 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to  
3660 provide services required for the administration of criminal justice pursuant to that agreement which shall  
3661 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
3662 security and confidentiality of the data;

3663 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
3664 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
3665 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
3666 security of the data;

3667 5. Agencies of state or federal government that are authorized by state or federal statute or  
3668 executive order of the President of the United States or Governor to conduct investigations determining  
3669 employment suitability or eligibility for security clearances allowing access to classified information;

3670 6. Individuals and agencies where authorized by court order or court rule;

3671 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
3672 owned, operated or controlled by any political subdivision, and any public service corporation that  
3673 operates a public transit system owned by a local government for the conduct of investigations of  
3674 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
3675 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

3676 conviction record would be compatible with the nature of the employment, permit, or license under  
3677 consideration;

3678 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)  
3679 of ~~Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered  
3680 a position of employment whenever, in the interest of public welfare or safety and as authorized in the  
3681 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
3682 with a conviction record would be compatible with the nature of the employment under consideration;

3683 8. Public or private agencies when authorized or required by federal or state law or interstate  
3684 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult  
3685 members of that individual's household, with whom the agency is considering placing a child or from  
3686 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,  
3687 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall  
3688 not be further disseminated to any party other than a federal or state authority or court as may be required  
3689 to comply with an express requirement of law;

3690 9. To the extent permitted by federal law or regulation, public service companies as defined in §  
3691 56-1, for the conduct of investigations of applicants for employment when such employment involves  
3692 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
3693 with the nature of the employment under consideration;

3694 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
3695 travel, including, but not limited to, issuing visas and passports;

3696 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-  
3697 101 at his cost, except that criminal history record information shall be supplied at no charge to a person  
3698 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)  
3699 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent  
3700 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual  
3701 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line  
3702 program as defined in § 15.2-1713.1;

3703 12. Administrators and board presidents of and applicants for licensure or registration as a child  
3704 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
3705 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
3706 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing  
3707 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall  
3708 not be further disseminated by the facility or agency to any party other than the data subject, the  
3709 Commissioner of Social Services' representative or a federal or state authority or court as may be required  
3710 to comply with an express requirement of law for such further dissemination; however, nothing in this  
3711 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from  
3712 issuing written certifications regarding the results of a background check that was conducted before July  
3713 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

3714 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
3715 offered or who accept public school employment and those current school board employees for whom a  
3716 report of arrest has been made pursuant to § 19.2-83.1;

3717 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
3718 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and  
3719 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in  
3720 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

3721 15. Licensed nursing homes, hospitals and home care organizations for the conduct of  
3722 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-  
3723 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
3724 162.9:1, subject to the limitations set out in subsection E;

3725 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
3726 investigations of applicants for compensated employment in licensed assisted living facilities and licensed  
3727 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

3728 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set  
3729 forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set  
3730 forth in § 4.1-622;

3731 18. The State Board of Elections and authorized officers and employees thereof and general  
3732 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with  
3733 respect to voter registration, limited to any record of felony convictions;

3734 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or  
3735 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner  
3736 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-  
3737 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,  
3738 treatment, or discharge planning;

3739 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
3740 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders  
3741 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

3742 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,  
3743 the Department of Education, or the Department of Behavioral Health and Developmental Services for  
3744 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
3745 services;

3746 22. The Department of Behavioral Health and Developmental Services and facilities operated by  
3747 the Department for the purpose of determining an individual's fitness for employment pursuant to  
3748 departmental instructions;

3749 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
3750 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
3751 records information on behalf of such governing boards or administrators pursuant to a written agreement  
3752 with the Department of State Police;

3753 24. Public institutions of higher education and nonprofit private institutions of higher education  
3754 for the purpose of screening individuals who are offered or accept employment;

3755 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
3756 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution  
3757 of higher education, for the purpose of assessing or intervening with an individual whose behavior may  
3758 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
3759 history record information obtained pursuant to this section or otherwise use any record of an individual  
3760 beyond the purpose that such disclosure was made to the threat assessment team;

3761 26. Executive directors of community services boards or the personnel director serving the  
3762 community services board for the purpose of determining an individual's fitness for employment, approval  
3763 as a sponsored residential service provider, permission to enter into a shared living arrangement with a  
3764 person receiving medical assistance services pursuant to a waiver, or permission for any person under  
3765 contract with the community services board to serve in a direct care position on behalf of the community  
3766 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

3767 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
3768 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
3769 permission to enter into a shared living arrangement with a person receiving medical assistance services  
3770 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to  
3771 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-  
3772 506.1, and 37.2-607;

3773 28. The Commissioner of Social Services for the purpose of locating persons who owe child  
3774 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only  
3775 the name, address, demographics and social security number of the data subject shall be released;

3776 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)  
3777 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
3778 purpose of determining if any applicant who accepts employment in any direct care position or requests  
3779 approval as a sponsored residential service provider, permission to enter into a shared living arrangement  
3780 with a person receiving medical assistance services pursuant to a waiver, or permission for any person  
3781 under contract with the provider to serve in a direct care position has been convicted of a crime that affects

3782 his fitness to have responsibility for the safety and well-being of individuals with mental illness,  
3783 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and  
3784 37.2-607;

3785 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
3786 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
3787 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

3788 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House  
3789 Committee for Courts of Justice for the purpose of determining if any person being considered for election  
3790 to any judgeship has been convicted of a crime;

3791 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
3792 determining an individual's fitness for employment in positions designated as sensitive under Department  
3793 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

3794 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
3795 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually  
3796 Violent Predators Act (§ 37.2-900 et seq.);

3797 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
3798 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
3799 companies, for the conduct of investigations of applications for employment or for access to facilities, by  
3800 contractors, leased laborers, and other visitors;

3801 35. Any employer of individuals whose employment requires that they enter the homes of others,  
3802 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

3803 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
3804 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
3805 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
3806 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
3807 than a federal or state authority or court as may be required to comply with an express requirement of law  
3808 for such further dissemination, subject to limitations set out in subsection G;

3809 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
3810 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
3811 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid  
3812 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
3813 administered by the Department of Medical Assistance Services;

3814 38. The State Corporation Commission for the purpose of investigating individuals who are current  
3815 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
3816 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title  
3817 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on  
3818 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of  
3819 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the  
3820 applicant or its designee;

3821 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
3822 individuals for initial licensure pursuant to § 54.1-2106.1;

3823 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
3824 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and  
3825 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§  
3826 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

3827 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

3828 42. The State Treasurer for the purpose of determining whether a person receiving compensation  
3829 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

3830 43. The Department of Education or its agents or designees for the purpose of screening individuals  
3831 seeking to enter into a contract with the Department of Education or its agents or designees for the  
3832 provision of child care services for which child care subsidy payments may be provided;

3833 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members  
3834 of a juvenile's household when completing a predispositional or postdispositional report required by §  
3835 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

3836 45. The State Corporation Commission, for the purpose of screening applicants for insurance  
3837 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

3838 46. Administrators and board presidents of and applicants for licensure or registration as a child  
3839 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
3840 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
3841 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
3842 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the  
3843 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's  
3844 representative, or a federal or state authority or court as may be required to comply with an express  
3845 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed  
3846 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications  
3847 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §  
3848 22.1-289.039;

3849 47. The National Center for Missing and Exploited Children for the purpose of screening  
3850 individuals who are offered or accept employment or will be providing volunteer or contractual services  
3851 with the National Center for Missing and Exploited Children; and

3852 48. Other entities as otherwise provided by law.

3853 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
3854 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
3855 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
3856 designated in the order on whom a report has been made under the provisions of this chapter.

3857 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn  
3858 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
3859 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
3860 copy of conviction data covering the person named in the request to the person making the request;  
3861 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
3862 making of such request. A person receiving a copy of his own conviction data may utilize or further

3863 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
3864 subject, the person making the request shall be furnished at his cost a certification to that effect.

3865 B. Use of criminal history record information disseminated to noncriminal justice agencies under  
3866 this section shall be limited to the purposes for which it was given and may not be disseminated further,  
3867 except as otherwise provided in subdivision A 46.

3868 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
3869 history record information for employment or licensing inquiries except as provided by law.

3870 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
3871 Exchange prior to dissemination of any criminal history record information on offenses required to be  
3872 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
3873 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where  
3874 time is of the essence and the normal response time of the Exchange would exceed the necessary time  
3875 period. A criminal justice agency to whom a request has been made for the dissemination of criminal  
3876 history record information that is required to be reported to the Central Criminal Records Exchange may  
3877 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of  
3878 information regarding offenses not required to be reported to the Exchange shall be made by the criminal  
3879 justice agency maintaining the record as required by § 15.2-1722.

3880 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
3881 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
3882 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

3883 F. Criminal history information provided to licensed assisted living facilities and licensed adult  
3884 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
3885 for any offense specified in § 63.2-1720.

3886 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be  
3887 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition  
3888 of barrier crime in § 19.2-392.02.

3889 H. Upon receipt of a written request from an employer or prospective employer, the Central  
3890 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported  
3891 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named  
3892 in the request to the employer or prospective employer making the request, provided that the person on  
3893 whom the data is being obtained has consented in writing to the making of such request and has presented  
3894 a photo-identification to the employer or prospective employer. In the event no conviction data is  
3895 maintained on the person named in the request, the requesting employer or prospective employer shall be  
3896 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on  
3897 forms provided by the Exchange.

3898 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
3899 information pursuant to the rules of court for obtaining discovery or for review by the court.

3900 **§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**  
3901 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**  
3902 **dissemination of criminal history record information; prohibited practices by employers,**  
3903 **educational institutions, and state and local governments; penalty.**

3904 A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor  
3905 violation of former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged  
3906 under-~~§§~~ former § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-  
3907 251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or  
3908 otherwise disclosed, provided that such records may be disseminated (i) to make the determination as  
3909 provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of  
3910 a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article  
3911 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to §  
3912 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to  
3913 subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established  
3914 pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173  
3915 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving

3916 juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the  
3917 Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure  
3918 information incidental to sentencing and to attorneys for the Commonwealth and probation officers to  
3919 prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi)  
3920 to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a  
3921 part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible  
3922 for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the  
3923 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the  
3924 Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time  
3925 employee of the State Police or a police department or sheriff's office that is a part of or administered by  
3926 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-  
3927 time or part-time employment with the State Police or a police department or sheriff's office that is a part  
3928 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health  
3929 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with  
3930 or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time  
3931 or part-time employee of the Department of Forensic Science for the purpose of screening any person for  
3932 full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-  
3933 enforcement officer of a locality, or his designee who shall be an individual employed as a public safety  
3934 official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for  
3935 the purpose of screening any person who applies to be a volunteer with or an employee of an emergency  
3936 medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of  
3937 the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as  
3938 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor  
3939 Carrier Safety Administration.

3940 B. An employer or educational institution shall not, in any application, interview, or otherwise,  
3941 require an applicant for employment or admission to disclose information concerning any arrest, criminal  
3942 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction

3943 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question  
 3944 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning  
 3945 any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or  
 3946 conviction is not open for public inspection pursuant to subsection A.

3947 C. Agencies, officials, and employees of the state and local governments shall not, in any  
 3948 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
 3949 governmental service to disclose information concerning any arrest, criminal charge, or conviction against  
 3950 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection  
 3951 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal  
 3952 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or  
 3953 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public  
 3954 inspection pursuant to subsection A. Such an application may not be denied solely because of the  
 3955 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

3956 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
 3957 violation.

3958 **§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and**  
 3959 **551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on**  
 3960 **dissemination of criminal history record information; prohibited practices by employers,**  
 3961 **educational institutions, and state and local governments; penalty.**

3962 A. Criminal history record information contained in the Central Criminal Records Exchange,  
 3963 including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of  
 3964 former § 18.2-248.1 or a violation of former § 18.2-250.1, including any violation charged under ~~§§~~ former  
 3965 § 18.2-248.1 or former § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be  
 3966 open for public inspection or otherwise disclosed, provided that such records may be disseminated and  
 3967 used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility  
 3968 to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in  
 3969 the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for

3970 its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department  
3971 or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
3972 thereof for the purpose of screening any person for full-time or part-time employment with, or to be a  
3973 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered  
3974 by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his  
3975 designee for the purpose of screening any person who applies to be a volunteer with or an employee of an  
3976 emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time  
3977 employee of the Department of Forensic Science for the purpose of screening any person for full-time or  
3978 part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer  
3979 of a locality, or his designee who shall be an individual employed as a public safety official of the locality,  
3980 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of  
3981 screening any person who applies to be a volunteer with or an employee of an emergency medical services  
3982 agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of  
3983 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R.  
3984 § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety  
3985 Administration; (ix) to any employer or prospective employer or its designee where federal law requires  
3986 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective  
3987 employer or its designee where the position that a person is applying for, or where access to the premises  
3988 in or upon which any part of the duties of such position is performed or is to be performed, is subject to  
3989 any requirement imposed in the interest of the national security of the United States under any security  
3990 program in effect pursuant to or administered under any contract with, or statute or regulation of, the  
3991 United States or any Executive Order of the President; (xi) to any person authorized to engage in the  
3992 collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting  
3993 such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set  
3994 forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court,  
3995 Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office  
3996 of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee

3997 for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person  
3998 for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the  
3999 Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a  
4000 local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any  
4001 employer or prospective employer or its designee that is allowed access to such sealed records in  
4002 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant  
4003 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)  
4004 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the  
4005 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,  
4006 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as  
4007 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized  
4008 by law; (xxi) to the Department of Social Services or any local department of social services for purposes  
4009 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating  
4010 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney  
4011 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the  
4012 provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv)  
4013 to the person arrested, charged, or convicted of the offense that was sealed.

4014 B. Except as provided in subsection C, agencies, officials, and employees of state and local  
4015 governments, private employers that are not subject to federal laws or regulations in the hiring process,  
4016 and educational institutions shall not, in any application, interview, or otherwise, require an applicant for  
4017 employment or admission to disclose information concerning any arrest, criminal charge, or conviction  
4018 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
4019 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
4020 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal  
4021 charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open  
4022 for public inspection pursuant to subsection A.

4023 C. The provisions of subsection B shall not apply if:

4024 1. The person is applying for full-time employment or part-time employment with, or to be a  
4025 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered  
4026 by the Commonwealth or any political subdivision thereof;

4027 2. This Code requires the employer to make such an inquiry;

4028 3. Federal law requires the employer to make such an inquiry;

4029 4. The position, or access to the premises in or upon which any part of the duties of such position  
4030 is performed or is to be performed, is subject to any requirement imposed in the interest of the national  
4031 security of the United States under any security program in effect pursuant to or administered under any  
4032 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

4033 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §  
4034 9.1-134 allow the employer to access such sealed records.

4035 D. Agencies, officials, and employees of the state and local governments shall not, in any  
4036 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
4037 governmental service to disclose information concerning any arrest, criminal charge, or conviction against  
4038 him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection  
4039 pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal  
4040 charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or  
4041 conviction when the record relating to such arrest, criminal charge, or conviction is not open for public  
4042 inspection pursuant to subsection A. Such an application may not be denied solely because of the  
4043 applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

4044 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,  
4045 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal  
4046 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction  
4047 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question  
4048 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning  
4049 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or  
4050 conviction is not open for public inspection pursuant to subsection A. Such an application may not be

4051 denied solely because of the applicant's refusal to disclose information concerning any such arrest,  
4052 criminal charge, or conviction.

4053 F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as  
4054 defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge,  
4055 or conviction against him when the record relating to such arrest, criminal charge, or conviction is not  
4056 open for public inspection pursuant to subsection A. An applicant need not, in answer to any question  
4057 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning  
4058 arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or  
4059 conviction is not open for public inspection pursuant to subsection A. Such an application may not be  
4060 denied solely because of the applicant's refusal to disclose information concerning any such arrest,  
4061 criminal charge, or conviction.

4062 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior  
4063 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such  
4064 subsections, such application shall include, or such entity or person shall provide, a notice to the applicant  
4065 that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection  
4066 A does not have to be disclosed in the application. Such notice need not be included on any application  
4067 for one or more of the purposes set forth in subsection C.

4068 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or  
4069 conviction that is not open for public inspection pursuant to subsection A or any information from such  
4070 records among law-enforcement officers and attorneys when such disclosures are made by such officers  
4071 or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure  
4072 or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth  
4073 when related to the prosecution of a separate crime.

4074 I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for  
4075 each violation.

4076 **§ 19.2-392.02. National criminal background checks by businesses and organizations**  
4077 **regarding employees or volunteers providing care to children or the elderly or disabled.**

4078 A. For purposes of this section:

4079 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,

4080 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

4081 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,

4082 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-

4083 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-

4084 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,

4085 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

4086 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,

4087 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-

4088 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-

4089 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-

4090 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

4091 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

4092 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,

4093 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-

4094 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

4095 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-

4096 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-

4097 480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the

4098 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-

4099 94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of

4100 § 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-

4101 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

4102 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250

4103 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in §

4104 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against

4105 Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of  
4106 insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in §  
4107 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against  
4108 Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another  
4109 jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is  
4110 required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not  
4111 included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

4112 "Barrier crime information" means the following facts concerning a person who has been arrested  
4113 for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at  
4114 the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief  
4115 description of the barrier crime or offenses for which the person has been arrested or has been convicted,  
4116 the disposition of the charge, and any other information that may be useful in identifying persons arrested  
4117 for or convicted of a barrier crime.

4118 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
4119 recreation to children or the elderly or disabled.

4120 "Department" means the Department of State Police.

4121 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,  
4122 or seeks to volunteer for a qualified entity.

4123 "Identification document" means a document made or issued by or under the authority of the  
4124 United States government, a state, a political subdivision of a state, a foreign government, political  
4125 subdivision of a foreign government, an international governmental or an international quasi-  
4126 governmental organization that, when completed with information concerning a particular individual, is  
4127 of a type intended or commonly accepted for the purpose of identification of individuals.

4128 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may  
4129 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
4130 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised

4131 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
4132 operate a qualified entity.

4133 "Qualified entity" means a business or organization that provides care to children or the elderly or  
4134 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
4135 pursuant to subdivision A 7 of § 22.1-289.030.

4136 B. A qualified entity may request the Department of State Police to conduct a national criminal  
4137 background check on any provider who is employed by such entity. No qualified entity may request a  
4138 national criminal background check on a provider until such provider has:

- 4139 1. Been fingerprinted; and
- 4140 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,  
4141 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
4142 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
4143 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
4144 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background  
4145 check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to  
4146 challenge the accuracy and completeness of any information contained in any such report, and to obtain a  
4147 prompt determination as to the validity of such challenge before a final determination is made by the  
4148 Department; and (v) a notice to the provider that prior to the completion of the background check the  
4149 qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled  
4150 for whom the qualified entity provides care.

4151 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
4152 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection  
4153 B, the Department shall make a determination whether the provider has been convicted of or is the subject  
4154 of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime  
4155 information, the Department shall access the national criminal history background check system, which  
4156 is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of  
4157 identification, and shall access the Central Criminal Records Exchange maintained by the Department. If

4158 the Department receives a background report lacking disposition data, the Department shall conduct  
4159 research in whatever state and local recordkeeping systems are available in order to obtain complete data.  
4160 The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business  
4161 days.

4162 D. Any background check conducted pursuant to this section for a provider employed by a private  
4163 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
4164 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified  
4165 to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

4166 E. Any background check conducted pursuant to this section for a provider employed by a  
4167 governmental entity shall be provided to that entity.

4168 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
4169 national criminal background check, the Department and the Federal Bureau of Investigation may each  
4170 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
4171 with the fingerprints.

4172 G. The failure to request a criminal background check pursuant to subsection B shall not be  
4173 considered negligence per se in any civil action.

4174 **§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing**  
4175 **of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of**  
4176 **former possession of marijuana offenses.**

4177 A. If a person was convicted of a violation of any of the following sections, such conviction,  
4178 including any records relating to such conviction, shall be ordered to be automatically sealed in the manner  
4179 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,  
4180 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

4181 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be  
4182 ordered to be automatically sealed if seven years have passed since the date of the conviction and the  
4183 person convicted of such offense has not been convicted of violating any law of the Commonwealth that  
4184 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other

4185 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions  
4186 under Title 46.2, during that time period.

4187 C. No conviction listed under subsection a shall be automatically sealed if, on the date of the  
4188 conviction, the person was convicted of another offense that is not eligible for automatic sealing under  
4189 subsection A.

4190 D. If a person was charged with any criminal offense and such offense concluded with any final  
4191 disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed  
4192 in the manner set forth in § 19.2-392.7.

4193 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit  
4194 court pursuant to the provisions of § 19.2-392.12.

4195 § 22.1-206. **Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine**  
4196 **products, and gambling.**

4197 A. Instruction concerning drugs and drug abuse shall be provided by the public schools as  
4198 prescribed by the Board of Education.

4199 B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage  
4200 drinking, underage marijuana use, and drunk driving shall be provided in the public schools. The Virginia  
4201 Alcoholic Beverage Control Authority and the Virginia Cannabis Control Authority shall provide  
4202 educational materials to the Department of Education. The Department of Education shall review and shall  
4203 distribute such materials as are approved to the public schools.

4204 C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education  
4205 shall distribute to each local school division educational materials concerning the health and safety risks  
4206 of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are  
4207 defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products,  
4208 nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall  
4209 be provided in each public elementary and secondary school in the Commonwealth, consistent with such  
4210 educational materials.

4211 D. Instruction concerning gambling and the addictive potential thereof shall be provided by the  
4212 public schools as prescribed by the Board.

4213 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4214 A. School boards shall expel from school attendance any student whom such school board has  
4215 determined, in accordance with the procedures set forth in this article, to have brought a controlled  
4216 substance, or imitation controlled substance, ~~or marijuana~~ as those terms are defined in § 18.2-247 onto  
4217 school property or to a school-sponsored activity. A school administrator, pursuant to school board policy,  
4218 or a school board may, however, determine, based on the facts of a particular situation, that special  
4219 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion  
4220 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee  
4221 to conduct a preliminary review of such cases to determine whether a disciplinary action other than  
4222 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another  
4223 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance  
4224 with the procedures set forth in this article. Nothing in this section shall be construed to require a student's  
4225 expulsion regardless of the facts of the particular situation.

4226 B. Each school board shall revise its standards of student conduct to incorporate the requirements  
4227 of this section no later than three months after the date on which this act becomes effective.

4228 **§ 23.1-1301. Governing boards; powers.**

4229 A. The board of visitors of each baccalaureate public institution of higher education or its designee  
4230 may:

- 4231 1. Make regulations and policies concerning the institution;
- 4232 2. Manage the funds of the institution and approve an annual budget;
- 4233 3. Appoint the chief executive officer of the institution;
- 4234 4. Appoint professors and fix their salaries; and
- 4235 5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

4236 B. The governing board of each public institution of higher education or its designee may:

4237 1. In addition to the powers set forth in Restructured Higher Education Financial and  
4238 Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real  
4239 property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor  
4240 and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used,  
4241 and administered in the same manner as all other gifts and bequests;

4242 2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other  
4243 purposes on any property owned by the institution;

4244 3. Adopt regulations or institution policies for parking and traffic on property owned, leased,  
4245 maintained, or controlled by the institution;

4246 4. Adopt regulations or institution policies for the employment and dismissal of professors,  
4247 teachers, instructors, and other employees;

4248 5. Adopt regulations or institution policies for the acceptance and assistance of students in addition  
4249 to the regulations or institution policies required pursuant to § 23.1-1303;

4250 6. Adopt regulations or institution policies for the conduct of students in attendance and for the  
4251 rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide  
4252 by such regulations or policies;

4253 7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to  
4254 promote (i) student compliance with state laws on the use of alcoholic beverages and marijuana and (ii)  
4255 the awareness and prevention of sexual crimes committed upon students;

4256 8. Establish guidelines for the initiation or induction of students into any social fraternity or  
4257 sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

4258 9. Assign any interest it possesses in intellectual property or in materials in which the institution  
4259 claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual  
4260 property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for  
4261 transfers of such property (i) developed wholly or predominantly through the use of state general funds,  
4262 exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope  
4263 of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and

4264 Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties  
4265 on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit  
4266 the respective institutions. The Governor may attach conditions to these transfers as he deems necessary.  
4267 In the event the Governor does not approve such transfer, the materials shall remain the property of the  
4268 respective institutions and may be used and developed in any manner permitted by law;

4269 10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through  
4270 electronic communication means pursuant to § 2.2-3708.3; and

4271 11. Adopt a resolution to require the governing body of a locality that is contiguous to the  
4272 institution to enforce state statutes and local ordinances with respect to offenses occurring on the property  
4273 of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce  
4274 statutes and local ordinances with respect to offenses occurring on the property of the institution.

4275 **§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.**

4276 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification  
4277 card, vehicle registration, certificate of title, or other document issued by the Department if such person  
4278 has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally  
4279 entitled thereto, including obtaining any document issued by the Department through the use of  
4280 counterfeit, forged, or altered documents.

4281 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,  
4282 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

4283 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special  
4284 identification card, vehicle registration, certificate of title, or other document obtained in violation of the  
4285 provisions of subsection A.

4286 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person  
4287 is charged and convicted of a violation of this section that involved the unlawful obtaining or possession  
4288 of any document issued by the Department for the purpose of engaging in any age-limited activity,  
4289 including but not limited to obtaining, possessing, or consuming alcoholic beverages or marijuana.

4290 However, if a person is charged and convicted of any other violation of this section, such offense shall  
4291 constitute a Class 6 felony.

4292 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special  
4293 identification card, vehicle registration, certificate of title, or other document issued by the Department  
4294 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail  
4295 notice of the cancellation to the address of record maintained by the Department.

4296 **§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification**  
4297 **card to obtain alcoholic beverages; penalties.**

4298 Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged,  
4299 deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United  
4300 States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government;  
4301 United States Armed Forces identification card; United States passport or foreign government visa;  
4302 Virginia Department of Motor Vehicles special identification card; official identification issued by any  
4303 other federal, state or foreign government agency; or official student identification card of an institution  
4304 of higher education to obtain alcoholic beverages ~~shall be~~ or marijuana is guilty of a Class 3 misdemeanor,  
4305 and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's  
4306 license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

4307 **§ 48-17.1. Temporary injunctions against alcoholic beverage sales.**

4308 A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court  
4309 to temporarily enjoin the sale of alcohol or marijuana at any establishment licensed by the Virginia  
4310 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority. The basis for such  
4311 petition shall be the operator of the establishment has allowed it to become a meeting place for persons  
4312 committing serious criminal violations of the law on or immediately adjacent to the premises so frequent  
4313 and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief  
4314 law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon  
4315 the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond,  
4316 enjoining the sale of alcohol or marijuana at the establishment, if it appears to the satisfaction of the court

4317 that the threat to public safety complained of exists and is likely to continue if such injunction is not  
4318 granted. The court hearing on the petition shall be held within 10 days of service upon the respondent.  
4319 The respondent shall be served with notice of the time and place of the hearing and copies of all  
4320 documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued by the  
4321 court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of  
4322 the injunction has been abated by reason of a change of ownership, management, or business operations  
4323 at the establishment, or other change in circumstance.

4324 B. The Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority  
4325 shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia  
4326 Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority shall initiate an  
4327 investigation into the activities at the establishment complained of and conduct an administrative hearing.  
4328 After the Virginia Alcoholic Beverage Control Authority or the Virginia Cannabis Control Authority  
4329 hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control  
4330 Authority or the Virginia Cannabis Control Authority, regardless of disposition, any injunction issued  
4331 hereunder shall be null, without further action by the complainant, respondent, or the court.

4332 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4333 This section shall apply to any person who is not a qualified voter because of a felony conviction,  
4334 who seeks to have his right to register to vote restored and become eligible to register to vote, and who  
4335 meets the conditions and requirements set out in this section.

4336 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
4337 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-  
4338 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)  
4339 convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which  
4340 he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for  
4341 restoration of his civil right to be eligible to register to vote through the process set out in this section. On  
4342 such petition, the court may approve the petition for restoration to the person of his right if the court is  
4343 satisfied from the evidence presented that the petitioner has completed, five or more years previously,

4344 service of any sentence and any modification of sentence including probation, parole, and suspension of  
4345 sentence; that the petitioner has demonstrated civic responsibility through community or comparable  
4346 service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for  
4347 the same period.

4348 If the court approves the petition, it shall so state in an order, provide a copy of the order to the  
4349 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the  
4350 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date  
4351 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary  
4352 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for  
4353 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the  
4354 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated  
4355 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the  
4356 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a  
4357 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the  
4358 State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

4359 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
4360 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to  
4361 vote.

4362 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

4363 A. Any person shall be regarded as practicing the healing arts who actually engages in such  
4364 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces  
4365 to the public in any manner a readiness to practice or who uses in connection with his name the words or  
4366 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter  
4367 or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able  
4368 to heal, cure or relieve those suffering from any injury, deformity or disease.

4369 Signing a birth or death certificate, or signing any statement certifying that the person so signing  
4370 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or

4371 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is  
4372 practicing the healing arts within the meaning of this chapter except where persons other than physicians  
4373 are required to sign birth certificates.

4374 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in  
4375 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an  
4376 abbreviation or designation, or other language that identifies the type of practice for which he is licensed.  
4377 No person regulated under this chapter shall include in any advertisement a reference to marijuana, as  
4378 defined in ~~§ 18.2-247~~ § 54.1-3401, unless such advertisement is for the treatment of addiction or substance  
4379 abuse. However, nothing in this subsection shall prevent a person from including in any advertisement  
4380 that such person is registered with the Board of Directors of the Virginia Cannabis Control Authority to  
4381 issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

4382 **§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity**  
4383 **to Internal Revenue Code.**

4384 A. Any term used in this chapter shall have the same meaning as when used in a comparable  
4385 context in the laws of the United States relating to federal income taxes, unless a different meaning is  
4386 clearly required.

4387 B. Any reference in this chapter to the laws of the United States relating to federal income taxes  
4388 shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other  
4389 provisions of the laws of the United States relating to federal income taxes, except for:

4390 1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l),  
4391 168(m), 1400L, and 1400N of the Internal Revenue Code;

4392 2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal  
4393 Revenue Code;

4394 3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F)  
4395 of the Internal Revenue Code;

4396 4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income  
4397 tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an

4398 "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the  
4399 taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless  
4400 the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-  
4401 taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or  
4402 over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable  
4403 year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of  
4404 the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income  
4405 from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

4406 5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation  
4407 on itemized deductions under § 68(f) of the Internal Revenue Code;

4408 6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for  
4409 taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income  
4410 threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the  
4411 deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such  
4412 taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed  
4413 for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal  
4414 adjusted gross income;

4415 7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic  
4416 Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

4417 8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act,  
4418 P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

4419 9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act,  
4420 P.L. 116-136 (2020), related to the limitation on business interest;

4421 10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2),  
4422 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  
4423 federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and

4424 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes,  
4425 and basis increases for certain loan forgiveness and other business financial assistance; ~~and~~

4426 11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would  
4427 increase or decrease general fund revenues by greater than \$15 million in the fiscal year in which the  
4428 amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall  
4429 not apply to any amendment to federal income tax law that is either subsequently adopted by the General  
4430 Assembly or a federal tax extender as defined in subdivision b;

4431 12. For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax  
4432 deductions for ordinary and necessary expenditures made in connection with carrying on a trade or  
4433 business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the  
4434 Internal Revenue Code.

4435 (2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine  
4436 die of the previous regular session of the General Assembly and the first day of the subsequent regular  
4437 session of the General Assembly if the cumulative projected impact of such amendments would increase  
4438 or decrease general fund revenues by greater than \$75 million in the fiscal year in which the amendments  
4439 were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply  
4440 to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly,  
4441 (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the  
4442 cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall  
4443 be included in the calculation of the \$75 million threshold for purposes of determining whether such  
4444 threshold has been met.

4445 (3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually  
4446 based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-  
4447 U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor  
4448 index for the previous year.

4449 b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income  
4450 tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the

4451 threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the  
4452 expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

4453 c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on  
4454 Finance and Appropriations and the House Committees on Appropriations and Finance, shall be  
4455 responsible for determining whether the criteria of subdivision a are met.

4456 d. The Secretary of Finance shall annually provide a report on or before November 15 of each year  
4457 on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of  
4458 the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on  
4459 Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of  
4460 Finance shall also provide updates to the same Chairmen on any further amendments to federal income  
4461 tax law occurring between submission of the required report and the first day of the subsequent regular  
4462 session of the General Assembly.

4463 C. The Department of Taxation is hereby authorized to develop procedures or guidelines for  
4464 implementation of the provisions of this section, which procedures or guidelines shall be exempt from the  
4465 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

4466 **§ 59.1-200. Prohibited practices.**

4467 A. The following fraudulent acts or practices committed by a supplier in connection with a  
4468 consumer transaction are hereby declared unlawful:

- 4469 1. Misrepresenting goods or services as those of another;
- 4470 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 4471 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or  
4472 services, with another;
- 4473 4. Misrepresenting geographic origin in connection with goods or services;
- 4474 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses,  
4475 or benefits;
- 4476 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or  
4477 model;

4478 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,  
4479 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class,"  
4480 without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used,  
4481 secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars,  
4482 imperfects or "not first class";

4483 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell  
4484 at the price or upon the terms advertised.

4485 In any action brought under this subdivision, the refusal by any person, or any employee, agent,  
4486 or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms  
4487 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall  
4488 not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods  
4489 or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount  
4490 of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer  
4491 did in fact have or reasonably expected to have at least such quantity or amount for sale;

4492 9. Making false or misleading statements of fact concerning the reasons for, existence of, or  
4493 amounts of price reductions;

4494 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or  
4495 parts installed;

4496 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice  
4497 or bill for merchandise or services previously ordered;

4498 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"  
4499 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's  
4500 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the  
4501 goods or services advertised or offered for sale;

4502 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of  
4503 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,

4504 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or  
4505 under federal statutes or regulations;

4506 13a. Failing to provide to a consumer, or failing to use or include in any written document or  
4507 material provided to or executed by a consumer, in connection with a consumer transaction any statement,  
4508 disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R.  
4509 Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection  
4510 with the consumer transaction;

4511 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in  
4512 connection with a consumer transaction;

4513 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515,  
4514 3.2-6516, or 3.2-6519 is a violation of this chapter;

4515 16. Failing to disclose all conditions, charges, or fees relating to:

4516 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign  
4517 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be  
4518 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does  
4519 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of  
4520 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not  
4521 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for  
4522 the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the  
4523 case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund  
4524 may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not  
4525 apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for  
4526 clearance; nor does this subdivision apply to special order purchases where the purchaser has requested  
4527 the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the  
4528 store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or  
4529 lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

4530           b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the  
4531 time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the  
4532 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of  
4533 sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the  
4534 agreement;

4535           16a. Failing to provide written notice to a consumer of an existing open-end credit balance in  
4536 excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's  
4537 overpayment on such account. Suppliers shall give consumers written notice of such credit balances within  
4538 60 days of receiving overpayments. If the credit balance information is incorporated into statements of  
4539 account furnished consumers by suppliers within such 60-day period, no separate or additional notice is  
4540 required;

4541           17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in  
4542 connection with a consumer transaction, failing to adhere to the terms and conditions of such an  
4543 agreement;

4544           18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

4545           19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1  
4546 et seq.);

4547           20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1  
4548 et seq.);

4549           21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-  
4550 207.17 et seq.);

4551           22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

4552           23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-  
4553 424 et seq.);

4554           24. Violating any provision of § 54.1-1505;

4555           25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act,  
4556 Chapter 17.6 (§ 59.1-207.34 et seq.);

- 4557 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 4558 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 4559 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 4560 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
- 4561 seq.);
- 4562 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40
- 4563 et seq.);
- 4564 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 4565 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 4566 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 4567 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 4568 35. Using the consumer's social security number as the consumer's account number with the
- 4569 supplier, if the consumer has requested in writing that the supplier use an alternate number not associated
- 4570 with the consumer's social security number;
- 4571 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 4572 37. Violating any provision of § 8.01-40.2;
- 4573 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 4574 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 4575 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 4576 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§
- 4577 59.1-525 et seq.);
- 4578 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 4579 43. Violating any provision of § 59.1-443.2;
- 4580 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 4581 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 4582 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 4583 47. Violating any provision of § 18.2-239;

- 4584 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 4585 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or
- 4586 has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 4587 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 4588 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 4589 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 4590 products that are used, secondhand or "seconds";
- 4591 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 4592 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 4593 52. Violating any provision of § 8.2-317.1;
- 4594 53. Violating subsection A of § 9.1-149.1;
- 4595 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
- 4596 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
- 4597 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
- 4598 which defective drywall has been permanently installed or affixed;
- 4599 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
- 4600 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-
- 4601 146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
- 4602 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
- 4603 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 4604 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 4605 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 4606 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 4607 59. Violating any provision of subsection E of § 32.1-126;
- 4608 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession
- 4609 licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 4610 61. Violating any provision of § 2.2-2001.5;

- 4611 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 4612 63. Violating any provision of § 6.2-312;
- 4613 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 4614 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 4615 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 4616 67. Knowingly violating any provision of § 8.01-27.5;
- 4617 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option
- 4618 to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30
- 4619 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period
- 4620 to avoid an obligation to pay for the goods or services;
- 4621 69. Selling or offering for sale any substance intended for human consumption, orally or by
- 4622 inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision,
- 4623 "synthetic derivative" means a chemical compound produced by man through a chemical transformation
- 4624 to turn a compound into a different compound by adding or subtracting molecules to or from the original
- 4625 compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S.
- 4626 Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be
- 4627 construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;
- 4628 70. Selling or offering for sale to a person younger than 21 years of age any substance intended
- 4629 for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall
- 4630 not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and
- 4631 scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct
- 4632 permitted under ~~Chapter 16 Subtitle II~~ (§ ~~4.1-1600~~ 4.1-600 et seq.) of Title 4.1;
- 4633 71. Selling or offering for sale any substance intended for human consumption, orally or by
- 4634 inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant
- 4635 packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less
- 4636 than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons
- 4637 younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such

4638 substance that constitutes a single serving, and (d) the total percentage and milligrams of  
4639 tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that  
4640 are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an~~  
4641 ~~independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International~~  
4642 ~~Organization of Standardization by a third party accrediting body~~ a licensed marijuana testing facility,  
4643 that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol  
4644 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to  
4645 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the  
4646 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under  
4647 ~~Chapter 16 (§ 4.1-1600 et seq.)~~ Subtitle II (§ 4.1-600 et seq.) of Title 4.1;

4648 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as  
4649 defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing  
4650 tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

4651 73. Selling or offering for sale any substance intended for human consumption, orally or by  
4652 inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container  
4653 or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined  
4654 in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a  
4655 manufacturer, processor, packer, or distributor of a product intended for human consumption other than  
4656 the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or  
4657 distribute such substance;

4658 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not  
4659 include a label stating that the product is not intended for human consumption. This subdivision shall not  
4660 (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and  
4661 scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted  
4662 under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were  
4663 manufactured prior to July 1, 2023, provided that the person provides documentation of the date of  
4664 manufacture if requested;

- 4665 75. Violating any provision of § 59.1-466.8;
- 4666 76. Violating subsection F of § 36-96.3:1;
- 4667 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or  
4668 (ii) any kratom product that does not include a label listing all ingredients and with the following guidance:  
4669 "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to  
4670 diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the  
4671 leaf of the plant *Mitragyna speciosa* or any extract thereof; and
- 4672 78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45,  
4673 to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale  
4674 of any such good or provision of any such continuous service.
- 4675 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or  
4676 lease solely by reason of the failure of such contract or lease to comply with any other law of the  
4677 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation  
4678 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such  
4679 contract or lease.
- 4680 **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.**
- 4681 **3. That the following provisions shall become effective on January 1, 2025: (i) §§ 3.2-4113, 4.1-1121,**  
4682 **4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-**  
4683 **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,**  
4684 **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-**  
4685 **308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22, 19.2-**  
4686 **389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08,**  
4687 **46.2-105.2, 46.2-347, 53.1-231.2, 54.1-2903, and 59.1-200 of the Code of Virginia, as amended by this**  
4688 **act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1111, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-**  
4689 **1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1312 of the Code of Virginia, as created**  
4690 **by this act; and (iii) §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, as**  
4691 **repealed by this act.**

4692 4. That the Virginia Cannabis Control Authority (the Authority) may, on and after July 1, 2024,  
4693 begin accepting license applications from all applicants, including pharmaceutical processors and  
4694 cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title  
4695 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with the  
4696 Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.)  
4697 of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of  
4698 the Code of Virginia, as created by this act. Notwithstanding the third enactment of this act, any  
4699 applicant issued a license by the Authority may operate in accordance with the provisions of this  
4700 act prior to January 1, 2025; however, prior to January 1, 2025, no licensee may engage in the retail  
4701 sale of marijuana, marijuana products, immature marijuana plants, or marijuana seeds.  
4702 Notwithstanding any other provision of law, on or after July 1, 2024, and prior to January 1, 2025,  
4703 no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana  
4704 transporter licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent  
4705 or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-  
4706 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-  
4707 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  
4708 act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such  
4709 violation is related to acts committed within the scope of the licensure or employment and in  
4710 accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of  
4711 Virginia) and this enactment. From July 1, 2024, to July 1, 2029, the Authority shall reserve license  
4712 slots for all pharmaceutical processors that have been issued a permit by the Board of Directors (the  
4713 Board) of the Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of  
4714 Virginia and issue a cultivation, processing, transporter, and retail license to any such  
4715 pharmaceutical processor that meets the applicable licensing requirements. The Board shall not  
4716 permit any marijuana cultivation facility licensee to engage in the outdoor growth of marijuana  
4717 plants until the Board has promulgated regulations governing outdoor growth pursuant to § 4.1-  
4718 606 of the Code of Virginia, as amended by this act.

4719 5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-  
4720 sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

4721 6. That the Virginia Cannabis Control Authority shall (i) analyze whether any limits should be  
4722 placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze and  
4723 identify an appropriate canopy size for pharmaceutical processors that also hold a marijuana  
4724 cultivation facility license, and (iii) report its finding to the General Assembly by November 1, 2024.

4725 7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall  
4726 promulgate regulations to implement the provisions of this act by December 31, 2024. With the  
4727 exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process  
4728 Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant  
4729 thereto shall apply to the Board's initial adoption of such regulations.

4730 8. That the provisions of this act may result in a net increase in periods of imprisonment or  
4731 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
4732 appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities;  
4733 therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia  
4734 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-  
4735 19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \_\_\_\_\_ for  
4736 periods of commitment to the custody of the Department of Juvenile Justice.

4737 #