VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 711

An Act to amend the Code of Virginia by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402, relating to marijuana; advertising restrictions; penalties.

[H 2428]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402 as follows:

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

E. For the purposes of this section, "synthetic derivative" and "tetrahydrocannabinol" mean the same as those terms are defined in § 4.1-1400.

§ 4.1-1400. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

§ 4.1-1401. General advertising restrictions.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

B. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall:

1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations;

2. Accurately and legibly identify the person responsible for its content;

3. Include the following statement: "For use by adults 21 years of age and older"; and

4. If the advertisement involves direct, individualized communication or dialogue, utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in such communication or dialogue.

C. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall not:

1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) through digital pop-ups;

2. Be misleading, deceptive, or false;

3. Target or appeal particularly to persons younger than 21 years of age, including by use of cartoons;

4. Imply that marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol enhance athletic prowess or are government endorsed;

5. Be displayed on a billboard or at a sporting event;

6. Make any reference to the intoxicating effects of marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol;

7. Promote overconsumption or consumption by persons younger than 21 years of age; or

8. Depict a person consuming marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol or depict any person younger than 21 years of age.

D. The provisions of this section shall not apply to noncommercial speech.

§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.

A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 712

An Act to amend the Code of Virginia by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402, relating to marijuana; advertising restrictions; penalties.

[S 1233]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1400, 4.1-1401, and 4.1-1402 as follows:

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

E. For the purposes of this section, "synthetic derivative" and "tetrahydrocannabinol" mean the same as those terms are defined in § 4.1-1400.

§ 4.1-1400. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

§ 4.1-1401. General advertising restrictions.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

B. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall:

1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations;

2. Accurately and legibly identify the person responsible for its content;

3. Include the following statement: "For use by adults 21 years of age and older"; and

4. If the advertisement involves direct, individualized communication or dialogue, utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in such communication or dialogue.

C. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall not:

1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) through digital pop-ups;

2. Be misleading, deceptive, or false;

3. Target or appeal particularly to persons younger than 21 years of age, including by use of cartoons;

4. Imply that marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol enhance athletic prowess or are government endorsed;

5. Be displayed on a billboard or at a sporting event;

6. Make any reference to the intoxicating effects of marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol;

7. Promote overconsumption or consumption by persons younger than 21 years of age; or

8. Depict a person consuming marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol or depict any person younger than 21 years of age.

D. The provisions of this section shall not apply to noncommercial speech.

§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.

A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

CHAPTER 769

An Act to amend and reenact Enactment 1 and Items 267, 269, and 341 of Chapter 2 of the Acts of Assembly of 2022, Special Session I, which appropriates the public revenues for two years ending, respectively, on June 30, 2023, and June 30, 2024, and to amend Chapter 2 of the Acts of Assembly of 2022, Special Session I, which appropriates the public revenues for two years ending, respectively, on June 30, 2023, and June 30, 2024, by adding items numbered 138.10, 486.10, C-36.50, and C-79.50, relating to general appropriation act.

[H 1400]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That Enactment 1 and Items 267, 269, and 341 of Chapter 2 of the Acts of Assembly of 2022, Special Session I are amended and reenacted and that Chapter 2 of the Acts of Assembly of 2022, Special Session I is amended and reenacted by adding items numbered 138.10, 486.10, C-36.50, and C-79.50, as follows:

1. §1. The following are hereby appropriated, for the current biennium, as set forth in succeeding parts, sections and items, for the purposes stated and for the years indicated:

A. The balances of appropriations made by previous acts of the General Assembly which are recorded as unexpended, as of the close of business on the last day of the previous biennium, on the final records of the State Comptroller; and

B. The public taxes and arrears of taxes, as well as moneys derived from all other sources, which shall come into the state treasury prior to the close of business on the last day of the current biennium. The term "moneys" means nontax revenues of all kinds, including but not limited to fees, licenses, services and contract charges, gifts, grants, and donations, and projected revenues derived from proposed legislation contingent upon General Assembly passage.

§ 2. Such balances, public taxes, arrears of taxes, and monies derived from all other sources as are not segregated by law to other funds, which funds are defined by the State Comptroller, pursuant to § 2.2-803, Code of Virginia, shall establish and constitute the general fund of the state treasury.

§ 3. The appropriations made in this act from the general fund are based upon the following:

	First Year	Second Year	Total
Unreserved Beginning Balance	~~$4,733,050,478~~ *$10,684,532,497*	$0 -	~~$4,733,050,478~~ *$10,684,532,497*
Additions to Balance	~~$1,440,246,365~~ *($3,078,628,035)*	~~($500,000)~~ *$405,452,425*	~~$1,439,746,365~~ *($2,673,175,610)*
Official Revenue Estimates	~~$24,871,345,500~~ *$24,871,135,500*	~~$27,263,014,900~~ *$27,286,414,900*	~~$52,134,360,400~~ *$52,157,550,400*
Transfer	$714,716,804	$733,205,420	$1,447,922,224
Total General Fund Resources Available for Appropriation	~~$31,759,359,147~~ *$33,191,756,766*	~~$27,995,720,320~~ *$28,425,072,745*	~~$59,755,079,467~~ *$61,616,829,511*

The appropriations made in this act from nongeneral fund revenues are based upon the following:

	First Year	Second Year	Total
Balance, June 30, 2022	$8,383,240,878	$0	$8,383,240,878
Official Revenue Estimates	$45,429,302,663	$45,043,705,919	$90,473,008,582
Lottery Proceeds Fund	$784,671,715	$764,671,715	$1,549,343,430
Internal Service Fund	$2,404,388,342	$2,413,968,065	$4,818,356,407
Bond Proceeds	$157,296,000	$0	$157,296,000
Total Nongeneral Fund Revenues Available for Appropriation	$57,158,899,598	$48,222,345,699	$105,381,245,297
TOTAL PROJECTED REVENUES	~~$88,918,258,745~~ *$90,350,656,364*	~~$76,218,066,019~~ *$76,647,418,444*	~~$165,136,324,764~~ *$166,998,074,808*

§ 4. Nongeneral fund revenues which are not otherwise segregated pursuant to this act shall be segregated in accordance with the acts respectively establishing them.

§ 5. The sums herein appropriated are appropriated from the fund sources designated in the respective items of this act.

§ 6. When used in this act the term:

A. "Current biennium" means the period from the first day of July two thousand twenty-two, through the thirtieth day of June two thousand twenty-four, inclusive.

B. "Previous biennium" means the period from the first day of July two thousand twenty, through the thirtieth day of June two thousand twenty-two, inclusive.

C. "Next biennium" means the period from the first day of July two thousand twenty-four, through the thirtieth day of June two thousand twenty-six, inclusive.

D. "State agency" means a court, department, institution, office, board, council or other unit of state government located in the legislative, judicial, or executive departments or group of independent agencies, or central appropriations, as shown in this act, and which is designated in this act by title and a three-digit agency code.

E. "Nonstate agency" means an organization or entity as defined in § 2.2-1505 C, Code of Virginia.

F. "Authority" sets forth the general enabling statute, either state or federal, for the operation of the program for which appropriations are shown.

G. "Discretionary" means there is no continuing statutory authority which infers or requires state funding for programs for which the appropriations are shown.

H. "Appropriation" shall include both the funds authorized for expenditure and the corresponding level of full-time equivalent employment.

I. "Sum sufficient" identifies an appropriation for which the Governor is authorized to exceed the amount shown in the Appropriation Act if required to carry out the purpose for which the appropriation is made.

J. "Item Details" indicates that, except as provided in § 6 H above, the numbers shown under the columns labeled Item Details are for information reference only.

K. Unless otherwise defined, terms used in this act dealing with budgeting, planning and related management actions are defined in the instructions for preparation of the Executive Budget.

§ 7. The total appropriations from all sources in this act have been allocated as follows:

BIENNIUM 2022 - 24

	General Fund	Nongeneral Fund		Total
OPERATING EXPENSES	~~$57,589,938,865~~	~~$101,887,858,668~~		~~$159,477,797,533~~
	$58,519,699,502	*$101,892,431,498*		*$160,412,131,000*
LEGISLATIVE DEPARTMENT	$235,368,778	$10,164,648		$245,533,426
JUDICIAL DEPARTMENT	$1,164,608,959	$75,913,598		$1,240,522,557
EXECUTIVE DEPARTMENT	~~$56,156,398,852~~	~~$99,483,361,090~~		~~$155,639,759,942~~
	$57,086,159,489	*$99,487,933,920*		*$156,574,093,409*
INDEPENDENT AGENCIES	$33,562,276	$2,318,419,332		$2,351,981,608
STATE GRANTS TO NONSTATE AGENCIES	$0	$0		$0
CAPITAL OUTLAY EXPENSES	~~$2,149,179,488~~ *$2,249,179,488*	$1,134,983,221	-	~~$3,284,162,709~~ *$3,384,162,709*
TOTAL	~~$59,739,118,353~~ *$60,768,878,990*	~~$103,022,841,889~~ *$103,027,414,719*		~~$162,761,960,242~~ *$163,796,293,709*

§ 8. This chapter shall be known and may be cited as the "~~2022~~ *2023* Appropriation Act."

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
267.	Revenue Stabilization Fund (73500)			$1,127,733,028	~~$0~~*$405,952,425*
	Payments to the Revenue Stabilization Fund (73501)	$1,127,733,028	~~$0~~*$405,952,425*		
	Fund Sources: General	$1,127,733,028	~~$0~~*$405,952,425*		

Authority: Title 2.2, Chapter 18, Article 4, Code of Virginia.

A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The auditor shall, at the same time, provide his report on the 15 percent limitation and the amount that could be paid into the fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.

B. Out of this appropriation, $1,127,733,028 the first year from the general fund attributable to actual

tax collections for fiscal year 2021 shall be paid by the State Comptroller on or before June 30, 2023, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2021. This appropriation meets the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

C. 1. Notwithstanding the provisions of subsection E of § 2.2-1829 and subsection F of § 2.2-1831.3, Code of Virginia, through June 30, 2024, the combined amount in the Revenue Stabilization Fund and the Revenue Reserve Fund shall not exceed 20 percent of the Commonwealth's average annual tax revenues derived from taxes on income and retail sales as certified by the Auditor of Public Accounts for the three fiscal years immediately preceding.

2. The Secretary of Finance shall prepare a report to include recommendations for consideration of any adjustments to, or a removal of, the existing cap on the combined balance of the Revenue Stabilization Fund and the Revenue Reserve Fund, pursuant to subsection E of § 2.2-1829 and subsection F of § 2.2-1831.3, Code of Virginia, which shall be delivered to the Governor and the Chairs of the House Appropriations Committee and Senate Finance and Appropriations Committee by September 1, 2022.

D.1. Out of this appropriation, $405,952,425 the second year from the general fund attributable to actual tax collections for fiscal year 2022 shall be paid by the State Comptroller on or before June 30, 2024, into the Revenue Stabilization Fund pursuant to §2.2-1829, Code of Virginia.

2. Notwithstanding the provisions of §2.2-1831.3 and §2.2-1831.4, Code of Virginia, the State Comptroller shall transfer $498,700,000 from the Revenue Reserve Fund to the Revenue Stabilization Fund on or before June 30, 2024. This amount was provided in Chapter 1, 2022 Acts of Assembly, Special Session I, as an advanced reservation for the mandatory deposit to the Revenue Stabilization Fund required in fiscal year 2024.

3. The combined total of the actions authorized in this paragraph, $904,652,425, is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2022. These actions meet the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
269.	Personnel Management Services (70400)			~~$31,359,934~~*$281,359,934*	$31,359,934
	Administration of Retirement and Insurance Programs (70415)	*$250,000,000*	*$0*		
	Employee Flexible Benefits Services (70420)	$31,359,934	$31,359,934		
	Fund Sources:				
	General	*$250,000,000*	*$0*		
	Trust and Agency	$31,359,934	$31,359,934		

Authority: Title 2.2, Chapter 8, Code of Virginia.

Pursuant to the amounts contingently appropriated in Item 485, paragraph L of this act, on or before June 30, 2023, the State Comptroller shall deposit $250,000,000 from the general fund into the Virginia Retirement System trust fund. The Virginia Retirement System shall allocate these funds in the following manner in an effort to address the unfunded liabilities associated with each plan:

1. An amount estimated at $73,052,105 to the state employee plan.

2. An amount estimated at $147,457,029 to the public school teacher plan.

3. An amount estimated at $3,652,605 to the State Police Officers' Retirement System.

4. An amount estimated at $6,628,802 to the Virginia Law Officers' Retirement System.

5. An amount estimated at $2,083,338 to the Judicial Retirement System.

6. An amount estimated at $2,840,915 to the health insurance credit plan for state employees.

7. An amount estimated at $4,004,338 to the health insurance credit plan for public school teachers.

8. An amount estimated at $10,146,126 to the group life insurance plan.

9. An amount estimated at $91,992 to the health insurance credit plan for Constitutional Officers and their employees.

10. An amount estimated at $40,585 to the health insurance credit plan for local social services employees.

11. An amount estimated at $2,165 to health insurance credit plan for the Registrars and their employees.

		First Year FY 2023	Second Year FY 2024	First Year FY 2023	Second Year FY 2024
341.	Financial Assistance for Self-Sufficiency Programs and Services (45200)			~~$154,487,484~~	~~$155,158,373~~
				$163,668,940	*$161,265,129*
	Temporary Assistance for Needy Families (TANF) Cash Assistance (45201)	$85,759,181	$86,357,163		
	Temporary Assistance for Needy Families (TANF) Employment Services (45212)	$17,045,689	$17,045,689		
	Supplemental Nutrition Assistance Program Employment and Training (SNAPET) Services (45213)	$2,205,341	$2,205,341		
	Temporary Assistance for Needy Families (TANF) Child Care Subsidies (45214)	$38,707,424	$38,707,424		
	At-Risk Child Care Subsidies (45215)	$2,864,671	$2,864,671		
	Unemployed Parents Cash Assistance (45216)	~~$7,905,178~~	~~$7,978,085~~		
		$17,086,634	*$14,084,841*		
	Fund Sources:				
	General	~~$82,548,802~~	~~$82,621,709~~		
		$91,730,258	*$88,728,465*		
	Federal Trust	$71,938,682	$72,536,664		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 1 through 7, Code of Virginia; Title VI, Subtitle B, P.L. 97 -35, as amended; P.L. 103 -252, as amended; P.L. 104 -193, as amended, Federal Code.

A. It is hereby acknowledged that as of June 30, 2021 there existed with the federal government an unexpended balance of $130,397,626 in federal Temporary Assistance for Needy Families (TANF) block grant funds which are available to the Commonwealth of Virginia to reimburse expenditures incurred in accordance with the adopted State Plan for the TANF program. Based on projected spending levels and appropriations in this act, the Commonwealth's accumulated balance for authorized federal TANF block grant funds is estimated at $79,652,390 on June 30, 2022; $49,119,392 on June 30, 2023; and $17,988,412 on June 30, 2024.

B. No less than 30 days prior to submitting any amendment to the federal government related to the State Plan for the Temporary Assistance for Needy Families program, the Commissioner of the Department of Social Services shall provide the Chairmen of the House Appropriations and Senate Finance an Appropriations Committees as well as the Director, Department of Planning and Budget written documentation detailing the proposed policy changes. This documentation shall include an estimate of the fiscal impact of the proposed changes and information summarizing public comment that was received on the proposed changes.

C. Notwithstanding any other provision of state law, the Department of Social Services shall maintain a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) program, 45 C.F.R. § 260.30, for the purpose of providing welfare cash assistance payments to able-bodied two-parent families. The separate state program shall be funded by state funds and operated outside of the TANF program. Able-bodied two-parent families shall not be eligible for TANF cash assistance as defined at 45 C.F.R. § 260.31 (a)(1), but shall receive benefits under the separate state program provided for in this paragraph. Although various conditions and eligibility requirements may be different under the separate state program, the basic benefit payment for which two-parent families are eligible under the separate state program shall not be less than what they would have received under TANF. The Department of Social

Services shall establish regulations to govern this separate state program.

D. As a condition of this appropriation, the Department of Social Services shall disregard the value of one motor vehicle per assistance unit in determining eligibility for cash assistance in the Temporary Assistance for Needy Families (TANF) program and in the separate state program for able-bodied two-parent families.

E. The Department of Social Services, in collaboration with local departments of social services, shall maintain minimum performance standards for all local departments of social services participating in the Virginia Initiative for Education and Work (VIEW) program. The department shall allocate VIEW funds to local departments of social services based on these performance standards and VIEW caseloads. The allocation formula shall be developed and revised in cooperation with the local social services departments and the Department of Planning and Budget.

F. A participant whose Temporary Assistance for Needy Families (TANF) financial assistance is terminated due to the receipt of 24 months of assistance as specified in § 63.2-612, Code of Virginia, or due to the closure of the TANF case prior to the completion of 24 months of TANF assistance, excluding cases closed with a sanction for noncompliance with the Virginia Initiative for Education and Work program, shall be eligible to receive employment and training assistance for up to 12 months after termination, if needed, in addition to other transitional services provided pursuant to § 63.2-611, Code of Virginia.

G. The Department of Social Services, in conjunction with the Department of Correctional Education, shall identify and apply for federal, private and faith-based grants for pre-release parenting programs for non-custodial incarcerated parent offenders committed to the Department of Corrections, including but not limited to the following grant programs: Promoting Responsible Fatherhood and Healthy Marriages, State Child Access and Visitation Block Grant, Serious and Violent Offender Reentry Initiative Collaboration, Special Improvement Projects, § 1115 Social Security Demonstration Grants, and any new grant programs authorized under the federal Temporary Assistance for Needy Families (TANF) block grant program.

H. Out of this appropriation, $2,647,305 the first year and $2,647,305 the second year from the general fund shall be provided to support state child care programs.

I. Out of this appropriation, the Department of Social Services shall use $4,800,000 the first year and $4,800,000 the second year from the federal Temporary Assistance to Needy Families (TANF) block grant to provide to each TANF recipient with two or more children in the assistance unit a monthly TANF supplement equal to the amount the Division of Child Support Enforcement collects up to $200, less the $100 disregard passed through to such recipient. The TANF child support supplement shall be paid within two months following collection of the child support payment or payments used to determine the amount of such supplement. For purposes of determining eligibility for medical assistance services, the TANF supplement described in this paragraph shall be disregarded. In the event there are sufficient federal TANF funds to provide all other assistance required by the TANF State Plan, the Commissioner may use unobligated federal TANF block grant funds in excess of this appropriation to provide the TANF supplement described in this paragraph.

J. The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.

K. The Department of Social Services shall develop a plan to increase the standards of assistance by 10 percent annually until they equal 50 percent of the federal poverty level.

L.1. The Department of Social Services (DSS) and the Department of Education (DOE) shall ensure that the Temporary Assistance for Needy Families (TANF) Virginia Initiative for Employment and Work (VIEW) mandated child care forecast is funded through a combination of general fund, TANF, and Child Care Development Fund (CCDF) grant dollars. The amount of needed CCDF dollars identified in the Memorandum of Agreement (MOA) between the agencies shall be transferred from DOE to DSS within the first thirty days of the fiscal year. DSS shall notify DOE of the required amount of the next fiscal year transfer upon the enrollment of the budget. This amount shall reflect the need identified in the official forecast as well as changes resulting from actions in the final budget.

2. The MOA shall reflect the full cost of the VIEW mandated child care program. From this amount, $38,707,424 the first year and $38,707,424 the second year is appropriated at DSS and the balance shall be transferred from DOE from the CCDF grant to support the VIEW mandated child care program as specified in L.1.

M. Out of this appropriation, $2,120,420 the first year and $2,120,420 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for the Department of Social Services to implement a program so that TANF-eligible individuals may save funds in an individual development account established for the purposes of home purchase, education, starting a business, transportation, or self-sufficiency. The TANF funds shall be deposited to the individual development accounts at a match rate determined by the department.

N. The Department of Social Services shall increase the Temporary Assistance for Needy Families (TANF) cash benefits and income eligibility threshold by five percent effective July 1, 2022.

486.10 Central Appropriations

1. Notwithstanding the provisions of Item 486 of this act, the funding provided pursuant to paragraph A.2.l.1) of Item 486 shall be reallocated in the following manner:

2. $28,057,684 in the first year to the Department of Medical Assistance Services (602) to procure a one-time vendor to assist in the redetermination of Medicaid enrollees over the twelve months following the end of the federal continuous Medicaid coverage requirement.

3. $10,000,000 in the first year to the Department of Social Services (765) to cover the one-time cost of supporting local departments of social services staff with efforts to perform benefit program redeterminations and appeals work in the twelve months following the end of the federal continuous Medicaid coverage requirement.

4. All funds allocated in paragraphs 2 and 3 shall only be used to support one-time eligibility redetermination efforts necessary to meet federal post public health emergency (unwinding) requirements. Prior to the transfer of any funds, impacted agencies shall provide the Department of Planning and Budget and Task Force on Eligibility Redetermination with an accounting of all agency unwinding activities and how any transferred funds will supplement those efforts.

C-36.50 Education

After the Governor has certified that the U.S. Department of Energy has approved a project to establish a high performance data facility associated with the Thomas Jefferson National Accelerator Facility (Jefferson Lab), the Director, Department of Planning and Budget, shall approve a short-term, interest-free, state-supported treasury loan in the amount of $43,305,379 to the Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC., to construct the infrastructure and a building in support of said high performance data facility. The Secretary of Finance shall issue guidelines on regular reporting required for the use of these funds if the contingency is met.

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
C-79.50	2022 Capital Supplement Pool (18646)			$100,000,000	$0
	Fund Sources:				
	General	$100,000,000	$0		

A. Included in this Item is $100,000,000 the first year from the general fund that is designated for project supplements to address shortfalls for projects and central capital construction pools.

1. In fulfillment of the requirement in paragraph L, Item 485 of this act, there is included $100,000,000 from the general fund in the first year.

2. Funding provided in this Item and remaining from Item C-69.60 of Chapter 1, 2022 Acts of Assembly, Special Session I, may be transferred and used for the purposes described in paragraph B. of this Item, pursuant to the approval process and requirements in paragraph C. of this Item.

B.1. Notwithstanding § 2.2-1519 E.1., Code of Virginia., funding may be used to address shortfalls for capital projects that (i) were previously authorized for construction in a central construction pool subject to the process delineated in § 2.2-1515 et. seq., Code of Virginia; (ii) have satisfied the requirements of § 2.2-1519 C. and E.2., Code of Virginia; and (iii) have received a funding report from the Department of General Services prior to April 1, 2022.

2. Funding may be used for projects, within the limits of the 105 percent cost threshold set forth in § 2.2-1519 E.1., Code of Virginia, that (i) were authorized for construction in a central construction pool subject to the process delineated in § 2.2-1515 et. seq., Code of Virginia; (ii) have satisfied the requirements of § 2.2-1519 C. and E.2., Code of Virginia; and (iii) had not received a funding report as of April 1, 2022.

3. Funding may be used to address shortfalls for projects that have been authorized in an Appropriation Act or other authorizing legislation for construction that were not budgeted in a central construction pool, provided that the agency is unable to use additional value engineering or reduce the size or scope of the project to remain within available appropriation while meeting the original programmatic intent of the appropriation.

4. Funding may be used to address shortfalls in central capital construction pools that have insufficient funding remaining to meet the outstanding needs of projects authorized within a given pool.

C.1. A transfer authorized by this Item may only be effectuated if (i) the Director of the Department of Planning and Budget provides notice of the amount and purpose of any such proposed transfer to the Six-Year Capital Outlay Plan Advisory Committee; and (ii) no member of the committee or their designee objects, in writing or via email, to the transfer within 14 days of receiving such notice. If an objection is received, the committee may discuss such proposed transfer at its next meeting and vote as to whether to recommend such transfer.

2. Specific project allocations for transfer from this Item shall be based upon recommendations from the Department of General Services.

3. Supplemental amounts determined in accordance with paragraph B.1., B.2., and B.3. of this Item shall be adjusted to match the proportion of a project's total cost supported by general fund as set forth in the funding report, Appropriation Act, or other authorizing legislation.

4. After receiving funds pursuant to paragraphs B.1. or B.3. of this Item, projects shall comply with the provisions of paragraph K. of § 2.0 of this act.

Direct Aid to Public Education

		Item Details($)		Appropriations($)	
		First Year FY2023	Second Year FY2024	First Year FY2023	Second Year FY2024
138.10	State Education Programs (17700)			$132,813,671	$130,279,159
	Distribution of State Education Assistance (17701) Fund Sources:	$132,813,671	$130,279,159		
	General	$132,703,671	$125,816,329		
	Special	$110,000	$125,000		
	Trust and Agency	$0	$4,337,830		

A. The appropriations within this agency shall be adjusted as follows:

General Fund Appropriations	First Year FY2023	Second Year FY2024
Update Average Daily Membership projections based on Fall Membership	$28,389,627	$42,826,514
Update costs of Categorical programs	$1,233,501	$1,241,783
Update costs of Incentive programs	($16,271,483)	($6,450,403)
Update Fall Membership data in Direct Aid program formulas	$97,384	$214,336
Update Lottery proceeds for public education	$9,499,460	($4,337,838)
Update program participation for Remedial Summer School	$9,139,785	$9,139,785
Update sales tax distribution for school age population	$0	($93,912)
Update sales tax revenue for public education	$90,474,422	$77,507,889
Update Supplemental Education accounts	($335,000)	$0
Update the cost of Lottery-funded programs	($104,903)	$0
Update the state cost for English as a Second Language	$2,147,022	$4,647,991
Update Academic Year Governor's School per pupil amounts	$1,104,051	$1,120,184
Use Lottery fund balances to support existing appropriation	($9,499,465)	$0
General Fund Total:	$115,874,401	$125,816,329

Nongeneral Fund Appropriations	First Year FY2023	Second Year FY2024
Increase nongeneral fund appropriation for Summer Residential Governor's World Language Academies	$110,000	$125,000
Update Lottery proceeds for public education	($9,499,462)	$4,337,830

Use Lottery fund balances to support existing appropriation	*$9,499,462*	*$0*
Nongeneral Fund Total:	*$110,000*	*$4,462,830*

B. Out of this appropriation, $16,829,270 the first year from the general fund is provided to ensure that the sum of basic aid and sales tax payments a school division receives in fiscal year 2023 is at least the sum of basic aid and sales tax payments that was communicated to school divisions in Superintendents Memo #133-22.

2. That this act is effective on its passage as provided in § 1-214 of the Code of Virginia.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-2499.8, 3.2-4113, 4.1-352, 4.1-600, 4.1-601, 4.1-603, 4.1-604, 4.1-606, 4.1-607, 4.1-611, 4.1-614, 4.1-621, 4.1-1100, 4.1-1101, 4.1-1121, 4.1-1500, 4.1-1501, 4.1-1502, 4.1-1601, 4.1-1604, 5.1-13, 9.1-1101, 16.1-69.40:1, 16.1-260, 16.1-273, 16.1-278.9, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-251.1:2, 18.2-251.1:3, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.012, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-66, 19.2-81, 19.2-81.1, 19.2-83.1, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-389, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-206, 22.1-277.08, 23.1-1301, 46.2-105.2, 46.2-347, 48-17.1, 53.1-231.2, 54.1-2903, 58.1-301, and 59.1-200 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 6 of Title 4.1 sections numbered 4.1-629, 4.1-630, and 4.1-631, by adding in Title 4.1 chapters numbered 7 through 10, consisting of sections numbered 4.1-700 through 4.1-1008, by adding sections numbered 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, and 4.1-1119, by adding in Title 4.1 a chapter numbered 12, consisting of sections numbered 4.1-1200 through 4.1-1206, by adding in Chapter 13 of Title 4.1 sections numbered 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309, by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1403 through 4.1-1406, by adding in Article 2 of Chapter 1 of Title 6.2 a section numbered 6.2-108, and by adding in Chapter 44 of Title 54.1 a section numbered 54.1-4426; and to repeal §§ 4.1-1101.1, 4.1-1105.1, 18.2-248.1, and 18.2-251.1 of the Code of Virginia, relating to cannabis control; retail market; penalties.

[H 698]

Approved

Be it enacted by the General Assembly of Virginia:

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

§ 2.2-2499.8. Cannabis Equity Reinvestment Fund.

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

1. Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;

2. Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance

use individually, in their families, or in their communities;

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

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

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

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

§ 3.2-4113. Production of industrial hemp lawful.

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

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

C. No person shall be prosecuted under 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 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, handler's storage site, or process site.

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

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

§ 4.1-600. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,

packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of ~~retail~~ marijuana and ~~retail~~ marijuana products in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health,

safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

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

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

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

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

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

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

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

approval.

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

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

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

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

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

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

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

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

The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-606. Regulations of the Board.

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

B. The Board shall promulgate regulations that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. ~~Establish~~ *For applicants that meet the criteria set forth in subdivision 13, establish* standards and requirements for (i) ~~any~~ *a* preference in the licensing process ~~for qualified social equity applicants,~~*;* (ii) what percentage of application or license fees are waived ~~for a qualified social equity applicant, and~~ *to*

promote participation by micro businesses with an inability to pay standard application and license fees; (iii) a low-interest business loan program ~~for qualified social equity applicants~~*; (iv) a waiver of any requirements to show proof of funds or current possession and control of the proposed licensed premises at the time of application; and (v) to the extent practicable, the proportional distribution of licenses among the applicants set forth in clauses (i) through (vi) in subdivision 13. The Board shall establish a process that prioritizes such applicants based on the number of subdivision 13 criteria categories met and ensures that increased priority is provided to applicants that meet the most criteria categories*;

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

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

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

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

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

C. The Board may promulgate regulations that:

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

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

b. ~~Marijuana wholesalers, 25;~~

~~c.~~ Marijuana ~~manufacturing~~ *processing* facilities, ~~60~~ *100*; ~~and~~

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

d. Tier II marijuana cultivation facilities, 50;

e. Tier III marijuana cultivation facilities, 10;

f. Tier IV marijuana cultivation facilities, 5;

g. Tier V marijuana cultivation facilities, 10; and

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

~~In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54. 1-3442.5 et seq.) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3. 2-4112 et seq.) of Title 3.2~~.

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

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

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

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

E. Courts shall take judicial notice of Board regulations.

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

G. With regard to regulations governing licensees that have been issued a permit by the Board ~~of Pharmacy~~ to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to ~~Article 4.2~~

~~(§ 54.1-3442.5 et seq.)~~ ~~of~~ ~~the~~ ~~Drug~~ ~~Control~~ ~~Act~~ *Chapter 16 (§ 4.1-1600 et seq.)*, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board ~~of~~ ~~Pharmacy~~ that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board ~~of~~ ~~Pharmacy~~ that mirror or are more extensive in scope than similar regulations promulgated pursuant ~~to~~ *other provisions of* this subtitle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. ~~Forty~~ *Ten* percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;

2. ~~Thirty~~ *Sixty* percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;

3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and

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

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

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

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

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

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

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

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

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

Upon the filing of a petition, the circuit court shall order the election officials to conduct a referendum on the question on the date fixed in the order. The date set by the order shall comply with the provisions of § 24.2-682, but in no event shall such date be more than 90 days from the date the

order is issued. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the locality once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 7.
ADMINISTRATION OF LICENSES; GENERAL PROVISIONS.

§ 4.1-700. Exemptions from licensure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Every licensed retail marijuana store shall keep complete, accurate, and separate records in

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

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

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

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

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

CHAPTER 8.

ADMINISTRATION OF LICENSES; LICENSES GRANTED BY BOARD.

§ 4.1-800. Marijuana cultivation facility license.

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

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

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

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

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

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

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

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

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

D. All areas within the licensed premises of a marijuana cultivation facility in which marijuana is

cultivated, labeled, packaged, or stored shall meet all sanitary standards specified in regulations adopted by the Board.

§ 4.1-801. Marijuana processing facility license.

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

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

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

§ 4.1-802. Retail marijuana store license.

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

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

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

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

a. An automated dispensing or vending machine;

b. A drive-through sales window;

c. An Internet-based sales platform; or

d. A delivery service.

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

4. A retail marijuana store shall not:

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

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

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

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

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

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

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

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

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

§ 4.1-803. Marijuana transporter license.

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

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

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

§ 4.1-804. Marijuana testing facility license.

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

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

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

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

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

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

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

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

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

B. A person may possess or hold interest in one or any combination of the following licenses pursuant to Board regulations: tier I marijuana cultivation facility license, tier II marijuana cultivation facility license, tier III marijuana cultivation facility license, tier IV marijuana cultivation facility license, tier V marijuana cultivation facility license, marijuana processing facility license, marijuana transporter license, or retail marijuana store license. Board regulations shall be drawn to ensure that all licensees have an equal and meaningful opportunity to participate in the market. Moreover, (i) no

person shall be granted or hold interest in more than five total licenses, not including marijuana transporter licenses, issued pursuant to this subtitle or more than one tier V marijuana cultivation facility license and (ii) no person that has been granted or holds interest in a marijuana cultivation facility license, marijuana processing facility license, marijuana transporter license, or retail marijuana store license shall be issued or hold interest in a marijuana testing facility license.

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

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

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

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

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

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

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

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

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

a. Is not 21 years of age or older;

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

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

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

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

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

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

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

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

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

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

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

3. The place to be occupied by the applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 9.

ADMINISTRATION OF LICENSES; SUSPENSION AND REVOCATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

any portion of public property immediately adjacent to the licensed premises; or

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

2. The place occupied by the licensee:

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

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

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

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

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

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

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

7. Any other cause authorized by this subtitle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an

initial hearing;

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

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

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

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

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

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

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

2. Destroyed by the Board or its designee.

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

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

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

CHAPTER 10.

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

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

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

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

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

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

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

E. The Board shall conduct a background investigation on each license applicant, which shall include a criminal history records search and may include a fingerprint-based national criminal history records search and a requirement for the provision of personal descriptive information to be forwarded

through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

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

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

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

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

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

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

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

§ 4.1-1001. Fees for state licenses.

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

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

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

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

§ 4.1-1002. Refund of state license fee.

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

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

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees

of state license fees paid pursuant to subsection A of § 4.1-1001 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

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

§ 4.1-1003. Marijuana taxes; exceptions.

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

1. From a marijuana establishment to another marijuana establishment.

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

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

4. Of a hemp product.

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

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

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

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

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

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

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

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

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

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

E. If any person liable for tax under § 4.1-1003 sells out his business or stock of goods or quits the business, such person shall make a final return and payment within 15 days after the date of selling or quitting the business. Such person's successors or assigns, if any, shall withhold sufficient of the

purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the Authority showing payment or a certificate stating that no taxes, penalties, or interest are due. If the buyer of a business or stock of goods fails to withhold the purchase money as provided in this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due and unpaid on account of the operation of the business by any former owner.

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

§ 4.1-1005. Bonds.

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

§ 4.1-1006. Refunds.

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

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

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

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

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

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

C. 1. If the Authority assesses taxes, interest, or penalties on a person and such person does not pay within 30 days after the due date, taking into account any extensions granted by the Authority, the Authority may file a memorandum of lien in the circuit court clerk's office of the county or city in which the person's place of business is located or in which the person resides. If the person has no place of business or residence within the Commonwealth, the memorandum may be filed in the Circuit Court of

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

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

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

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

§ 4.1-1008. Appeals.

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

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

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

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

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

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

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

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

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

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

A violation of this subsection shall be punishable as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Any person who sells, except as otherwise permitted under Chapter 16 (§ 4.1-1600 et seq.), any marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the

Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-1113. Maintaining common nuisances; penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 12.

PROHIBITED PRACTICES BY LICENSEES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Any person who fails to file a return required for a tax due under § 4.1-1003 is subject to a civil

penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than 30 days, with an additional five percent for each additional 30 days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed 25 percent in the aggregate.

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

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

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

§ 4.1-1300. Enjoining nuisances.

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

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

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

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

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

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

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

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

In case of seizure of any item for any offense involving its forfeiture where it is impracticable to remove such item to a place of safe storage from the place where seized, the seizing officer may destroy such item only as necessary to prevent use of all or any part thereof. The destruction shall be in the

presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the item was set up for use, or had been used in the unlawful cultivation, processing, or manufacture of marijuana, and that it was impracticable to remove such apparatus to a place of safe storage.

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

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

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

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

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

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

§ 4.1-1304. Contraband marijuana or marijuana products.

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

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

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

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

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

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

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

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

§ 4.1-1307. Previous convictions.

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

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

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

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

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

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

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

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

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

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

1. Residual solvents;

2. Heavy metals;

3. Microbiological contaminants;

4. Mycotoxins;

5. Pesticide chemical residue; and

6. Active ingredient analysis.

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

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

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

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

1. Conducted on marijuana or a marijuana product at the direction of a licensee pursuant to this

section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol or contamination for any contaminant that is injurious to health and for which testing is required;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. A recommended use by date or expiration date;

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

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

10. A certificate of analysis, produced by licensed marijuana testing facility, that states the total tetrahydrocannabinol concentration of the substance or the total tetrahydrocannabinol concentration of

the batch from which the substance originates; and

11. Any other information required by Board regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-1500. Definitions.

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

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

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

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

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

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

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

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

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

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

B. The Program shall:

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

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

3. Provide technical assistance; and

4. Bring together community partners to sustain the Program.

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

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

information on products or educational materials on the benefits and risks of cannabis products.

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

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

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

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

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

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

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

§ 4.1-1604. Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248~~, 18.2-248.1,~~ or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes

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

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

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

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

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

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

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

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

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

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

B. The Department shall:

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

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

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

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

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

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

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

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

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

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

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

Such infractions shall not include:

1. Indictable offenses;

2. [Repealed.]

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

4. Reckless driving;

5. Leaving the scene of an accident;

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

7. Driving without being licensed to drive.

8. [Repealed.]

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

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

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

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify

support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner information on the possible availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of Medical Assistance Services.

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

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

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

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

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the juvenile, which may include restitution, the performance of community service, or on a complaint alleging that a child has committed a delinquent act other than an act that would be a felony

or a Class 1 misdemeanor if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice diversion program alleging that the juvenile failed to comply with the youth justice diversion program's sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

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

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

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

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

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

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

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 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;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1~~ *Chapter 11* (§ ~~18.2-247~~ *4.1-1100* et seq.) ~~of Chapter 7~~ of Title ~~18.2~~ *4.1*;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1;

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

14. A threat pursuant to § 18.2-60.

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

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

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

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

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

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

4. In the case of offenses, *other than marijuana-related offenses,* which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an

intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

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

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

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

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

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

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

spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

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

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

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

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

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

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

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

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

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

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal

under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

§ 18.2-46.1. Definitions.

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

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

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

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 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, 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, 18.2-287.4, 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 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~~ ~~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 violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

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

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

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

d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions ~~2a through 2c~~ *a, b, and c*;

3. 250 grams or more of a mixture or substance described in subdivisions ~~2a~~ *2 a* through ~~2d~~ *2 d* that contain cocaine base; or

4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

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

a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;

c. The offense did not result in death or serious bodily injury to any person;

d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and

e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

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

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

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

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact

received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~

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

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

distribute the following during any 12-month period of its existence:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Whenever any person who has not previously been convicted of any offense under this article or

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

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

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

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

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

§ 18.2-265.1. Definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

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

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 18.2-308.012. Prohibited conduct.

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

B. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Authority under Title 4.1 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun

onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

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

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

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

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

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

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

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

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

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.

§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.

Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the Department of Juvenile Justice in any juvenile correctional center, any drug ~~which~~ *that* is a controlled substance regulated by the Drug Control Act ~~in Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1 or marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,

ammunitions, or explosives of any nature is guilty of a Class 3 felony.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 ~~or 18.2-248.1~~, any felony violation of Chapter 29 (§ 59.1-364 et seq.) 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 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 not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-81. Arrest without warrant authorized in certain cases.

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;

2. Sheriffs of the various counties and cities, and their deputies;

3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;

4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;

5. Regular conservation police officers appointed pursuant to § 29.1-200;

6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;

7. Conservation officers appointed pursuant to § 10.1-115;

8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;

9. Special agents of the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*;

10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

11. Members of the Division of Capitol Police.

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the

arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or capias for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.

Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in § 19.2-81, persons for crimes involving:

~~(a)~~ *1.* The escape of an inmate from a correctional institution, as defined in § 53.1-1;

~~(b)~~ *2.* Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;

~~(c)~~ *3.* The delivery of contraband to an inmate in violation of § *4.1-1117,* 18.2-474, or ~~§~~ 18.2-474.1; and

~~(d)~~ *4.* Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare, or security of the population of a correctional institution.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary teacher or any other employee in any local school division in the Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state, shall file a report of such arrest with the division safety official designated pursuant to subsection F of § 22.1-279.8 in the school division in which such person is employed as soon as practicable but no later than 48 hours after such arrest. The contents of the report required pursuant to this subsection shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. The report required pursuant to subsection A shall be transmitted to the division safety official (i) via certified mail, return receipt requested, to the mailing address identified by the division superintendent pursuant to subsection F of § 22.1-279.8 or (ii) via fax and email to the fax number and email address identified by the division superintendent pursuant to subsection F of § 22.1-279.8. Any certified mail return receipt shall be retained in the case file.

C. (Expires July 1, 2027) In the event that the law-enforcement agency has existing access to Virginia Employment Commission records, each arresting official shall request in writing that the

Virginia Employment Commission provide the name of the current employer of each person arrested for an offense set forth in § 9.1-902 for purposes of determining whether a report is required pursuant to subsection A.

D. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any local school division in the Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 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;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1~~ *Chapter 11* (§ ~~18.2-247~~ *4.1-1100* et seq.) ~~of Chapter 7~~ of Title ~~18.2~~ *4.1*;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

9. Robbery pursuant to § 18.2-58;

10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

12. An act of violence by a mob pursuant to § 18.2-42.1; or

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests that have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in ~~§~~ *§§ 4.1-600 and* 18.2-247.

B. In any trial for a violation of § ~~4.1-1105.1~~ *4.1-1104 or 4.1-1105*, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § ~~4.1-1105.1~~ *4.1-1104 or 4.1-1105*, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science in accordance with the provisions of § ~~18.2-247~~ *9.1-1101* and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-95, 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, 18.2-251.2, 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 substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any

danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or* Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana ~~or possession with intent to distribute marijuana~~ in violation of ~~subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1~~ *§ 4.1-1103*, or (c) a drug-related offense in violation of § *4.1-1117 or* 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § ~~18.2-248.1~~ *4.1-1103* or for a controlled substance or marijuana in violation of § *4.1-1117 or* 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.).

§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or* Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture of any such substance or paraphernalia to the Department of Forensic Science, the Department of State Police, or to such police department or sheriff's office for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that a statement under oath, reporting a description of the substances and paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Chapter 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 provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

C. The amount of any specific controlled substance, or imitation controlled substance, retained by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall not result in the requesting agency's exceeding the limits allowed by this subsection.

D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an inventory of such substance on a monthly basis, which shall include a description and weight of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for research and training purposes. A written report outlining the details of the inventory shall be made to the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and the agency shall detail the substances that were used for research and training pursuant to a court order in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court along with a statement prepared under oath, reporting a description of the substance destroyed, and the time, place, and manner of destruction.

§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.

Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection with any prosecution or investigation under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or* Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal prosecution under *Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or* Chapter 7 (§ 18.2-247 et seq.) of Title 18.2. The court in its order may make provision for ensuring integrity of these items until further order of the court.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is

pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) ~~of Title 33.2~~ and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,

and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 *or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622*;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner 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, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement

with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of

investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

47. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and

48. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389.3. (For contingent expiration dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on

dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Records relating to the arrest, criminal charge, or conviction of a person for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under ~~§§~~ *former §* 18.2-248.1 or *former §* 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-389.3. (For contingent effective dates see Acts 2021, Sp. Sess. I, cc. 524, 542, 550, and 551; Contingent repeal per Acts 2023, cc. 554, 555, cl. 3) Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.

A. Criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, criminal charge, or conviction, for a misdemeanor violation of *former* § 18.2-248.1 or a violation of *former* § 18.2-250.1, including any violation charged under ~~§§~~ *former §* 18.2-248.1 or *former §* 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

B. Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,

criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. The provisions of subsection B shall not apply if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry;

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; or

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

D. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning arrests, criminal charges, or convictions when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection C.

H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection pursuant to subsection A or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

I. A person who willfully violates subsection B, D, E, or F is guilty of a Class 1 misdemeanor for each violation.

§ 19.2-392.02. National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 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

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, 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 18.2-50.3; 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, 18.2-52, 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, 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 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, 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, 18.2-67.5:3, 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, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, 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 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 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, 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, 18.2-374.1:1, 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 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, 18.2-423.2, 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, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1,~~ 18.2-248.5, 18.2-251.2, 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 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 22.1-289.030.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and

date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of $18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

§ 19.2-392.6. (For effective date see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of offenses resulting in a deferred and dismissed disposition or conviction; automatic sealing of former possession of marijuana offenses.

A. If a person was convicted of a violation of any of the following sections, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner 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, 18.2-120, or 18.2-134; a misdemeanor violation of *former* § 18.2-248.1; or § 18.2-415.

B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to be automatically sealed if seven years have passed since the date of the conviction and the person convicted of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

C. No conviction listed under subsection a shall be automatically sealed if, on the date of the conviction, the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

D. If a person was charged with any criminal offense and such offense concluded with any final disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7.

E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court pursuant to the provisions of § 19.2-392.12.

§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, tobacco and nicotine products, and gambling.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, *underage marijuana use,* and drunk driving shall be provided in the public schools. The Virginia

Alcoholic Beverage Control Authority *and the Virginia Cannabis Control Authority* shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

D. Instruction concerning gambling and the addictive potential thereof shall be provided by the public schools as prescribed by the Board.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance~~,~~ *or* imitation controlled substance~~, or marijuana~~ as *those terms are* defined in § 18.2-247 onto school property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article. Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 23.1-1301. Governing boards; powers.

A. The board of visitors of each baccalaureate public institution of higher education or its designee may:

1. Make regulations and policies concerning the institution;

2. Manage the funds of the institution and approve an annual budget;

3. Appoint the chief executive officer of the institution;

4. Appoint professors and fix their salaries; and

5. Fix the rates charged to students for tuition, mandatory fees, and other necessary charges.

B. The governing board of each public institution of higher education or its designee may:

1. In addition to the powers set forth in Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.), lease or sell and convey its interest in any real property that it has acquired by purchase, will, or deed of gift, subject to the prior approval of the Governor and any terms and conditions of the will or deed of gift, if applicable. The proceeds shall be held, used, and administered in the same manner as all other gifts and bequests;

2. Grant easements for roads, streets, sewers, waterlines, electric and other utility lines, or other purposes on any property owned by the institution;

3. Adopt regulations or institution policies for parking and traffic on property owned, leased, maintained, or controlled by the institution;

4. Adopt regulations or institution policies for the employment and dismissal of professors, teachers, instructors, and other employees;

5. Adopt regulations or institution policies for the acceptance and assistance of students in addition to the regulations or institution policies required pursuant to § 23.1-1303;

6. Adopt regulations or institution policies for the conduct of students in attendance and for the rescission or restriction of financial aid, suspension, and dismissal of students who fail or refuse to abide by such regulations or policies;

7. Establish programs, in cooperation with the Council and the Office of the Attorney General, to promote (i) student compliance with state laws on the use of alcoholic beverages *and marijuana* and (ii) the awareness and prevention of sexual crimes committed upon students;

8. Establish guidelines for the initiation or induction of students into any social fraternity or sorority in accordance with the prohibition against hazing as defined in § 18.2-56;

9. Assign any interest it possesses in intellectual property or in materials in which the institution claims an interest, provided such assignment is in accordance with the terms of the institution's intellectual property policies adopted pursuant to § 23.1-1303. The Governor's prior written approval is required for transfers of such property (i) developed wholly or predominantly through the use of state

general funds, exclusive of capital assets and (ii)(a) developed by an employee of the institution acting within the scope of his assigned duties or (b) for which such transfer is made to an entity other than (1) the Innovation and Entrepreneurship Investment Authority, (2) an entity whose purpose is to manage intellectual properties on behalf of nonprofit organizations, colleges, and universities, or (3) an entity whose purpose is to benefit the respective institutions. The Governor may attach conditions to these transfers as he deems necessary. In the event the Governor does not approve such transfer, the materials shall remain the property of the respective institutions and may be used and developed in any manner permitted by law;

10. Conduct closed meetings pursuant to §§ 2.2-3711 and 2.2-3712 and conduct business through electronic communication means pursuant to § 2.2-3708.3; and

11. Adopt a resolution to require the governing body of a locality that is contiguous to the institution to enforce state statutes and local ordinances with respect to offenses occurring on the property of the institution. Upon receipt of such resolution, the governing body of such locality shall enforce statutes and local ordinances with respect to offenses occurring on the property of the institution.

§ 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department if such person has not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally entitled thereto, including obtaining any document issued by the Department through the use of counterfeit, forged, or altered documents.

B. It shall be unlawful to aid any person to obtain any driver's license, special identification card, vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special identification card, vehicle registration, certificate of title, or other document obtained in violation of the provisions of subsection A.

D. A violation of any provision of this section shall constitute a Class 2 misdemeanor if a person is charged and convicted of a violation of this section that involved the unlawful obtaining or possession of any document issued by the Department for the purpose of engaging in any age-limited activity, including but not limited to obtaining, possessing, or consuming alcoholic beverages *or marijuana*. However, if a person is charged and convicted of any other violation of this section, such offense shall constitute a Class 6 felony.

E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special identification card, vehicle registration, certificate of title, or other document issued by the Department has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail notice of the cancellation to the address of record maintained by the Department.

§ 46.2-347. Fraudulent use of driver's license or Department of Motor Vehicles identification card to obtain alcoholic beverages; penalties.

Any underage person as specified in § 4.1-304 who knowingly uses or attempts to use a forged, deceptive or otherwise nongenuine driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any foreign country or government; United States Armed Forces identification card; United States passport or foreign government visa; Virginia Department of Motor Vehicles special identification card; official identification issued by any other federal, state or foreign government agency; or official student identification card of an institution of higher education to obtain alcoholic beverages ~~shall be~~ *or marijuana is* guilty of a Class 3 misdemeanor, and upon conviction of a violation of this section, the court shall revoke such convicted person's driver's license or privilege to drive a motor vehicle for a period of not less than 30 days nor more than one year.

§ 48-17.1. Temporary injunctions against alcoholic beverage sales.

A. Any locality by or through its mayor, chief executive, or attorney may petition a circuit court to temporarily enjoin the sale of alcohol *or marijuana* at any establishment licensed by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*. The basis for such petition shall be the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety, as represented in an affidavit by the chief law-enforcement officer of the locality, supported by records of such criminal acts. The court shall, upon the presentation of evidence at a hearing on the matter, grant a temporary injunction, without bond, enjoining the sale of alcohol *or marijuana* at the establishment, if it appears to the satisfaction of the court that the threat to public safety complained of exists and is likely to continue if such injunction is not granted. The court hearing on the petition shall be held within 10 days of service upon the respondent. The respondent shall be served with notice of the time and place of the hearing and copies of all documentary evidence to be relied upon by the complainant at such hearing. Any injunction issued

by the court shall be dissolved in the event the court later finds that the threat to public safety that is the basis of the injunction has been abated by reason of a change of ownership, management, or business operations at the establishment, or other change in circumstance.

B. The Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall be given notice of any hearing under this section. In the event an injunction is granted, the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* shall initiate an investigation into the activities at the establishment complained of and conduct an administrative hearing. After the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority* hearing and when a final determination has been issued by the Virginia Alcoholic Beverage Control Authority *or the Virginia Cannabis Control Authority*, regardless of disposition, any injunction issued hereunder shall be null, without further action by the complainant, respondent, or the court.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to § 4.1-1101, *4.1-1114*, 18.2-248, 18.2-248.01, ~~18.2-248.1,~~ 18.2-255, 18.2-255.2, or 18.2-258.02; or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § ~~18.2-247~~ *54.1-3401*, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Directors of the Virginia Cannabis

Control Authority to issue written certifications for the use of cannabis products, as defined in § 4.1-1600.

§ 54.1-4426. Accounting services for licensed marijuana establishments.

A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided in § 4.1-600.

B. A CPA, CPA firm, or officer, director, or employee of a CPA or CPA firm that provides accounting services to a licensed marijuana establishment shall not be held liable pursuant to any state law or regulation solely for providing such accounting services.

C. Nothing in this section shall require a CPA or CPA firm to provide accounting services to a licensed marijuana establishment.

§ 58.1-301. (Applicable to taxable years beginning on and after January 1, 2023) Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";

5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;

6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest;

10. For taxable years beginning before January 1, 2021, the provisions of §§ 276(a), 276(b)(2), 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 federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9672(2), 9672(3), 9673(2), and 9673(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance; ~~and~~

11. a. (1) Any amendment enacted on or after January 1, 2023, with a projected impact that would increase or decrease general fund revenues by greater than $15 million in the fiscal year in which the amendment was enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is either subsequently adopted by the General Assembly or a federal tax extender as defined in subdivision b*;*

12. For taxable years beginning on and after January 1, 2024, the prohibition on utilizing tax

deductions for ordinary and necessary expenditures made in connection with carrying on a trade or business licensed in Virginia pursuant to Subtitle II of Title 4.1 (§ 4.1-600 et. seq.) under § 280E of the Internal Revenue Code.

(2) All amendments enacted on or after January 1, 2023, and occurring between adjournment sine die of the previous regular session of the General Assembly and the first day of the subsequent regular session of the General Assembly if the cumulative projected impact of such amendments would increase or decrease general fund revenues by greater than $75 million in the fiscal year in which the amendments were enacted or any of the succeeding four fiscal years. The provisions of this subdivision shall not apply to any amendment to federal income tax law that is (i) subsequently adopted by the General Assembly, (ii) a federal tax extender as defined in subdivision b, or (iii) enacted before the date on which the cumulative projected impact is met. However, any amendment conformed to pursuant to clause (iii) shall be included in the calculation of the $75 million threshold for purposes of determining whether such threshold has been met.

(3) Beginning January 1, 2024, the threshold provided by subdivision (1) shall be adjusted annually based on the preceding change in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor or any successor index for the previous year.

b. For purposes of this subdivision 11, "amendment" means a single amendment to federal income tax law or a group of such amendments enacted in the same act of Congress that collectively surpass the threshold impact, and "federal tax extender" means an amendment to federal tax law that extends the expiration date of a federal tax provision to which Virginia conforms or has previously conformed.

c. The Secretary of Finance, in consultation with the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance, shall be responsible for determining whether the criteria of subdivision a are met.

d. The Secretary of Finance shall annually provide a report on or before November 15 of each year on the fiscal impact of amendments to federal income tax law occurring since the adjournment sine die of the preceding regular session of the General Assembly to the Chairmen of the Senate Committee on Finance and Appropriations and the House Committees on Appropriations and Finance. The Secretary of Finance shall also provide updates to the same Chairmen on any further amendments to federal income tax law occurring between submission of the required report and the first day of the subsequent regular session of the General Assembly.

C. The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of $5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;

55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);

59. Violating any provision of subsection E of § 32.1-126;

60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

61. Violating any provision of § 2.2-2001.5;

62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;

63. Violating any provision of § 6.2-312;

64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;

65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;

66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);

67. Knowingly violating any provision of § 8.01-27.5;

68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an obligation to pay for the goods or services;

69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16~~ *Subtitle II* (§ ~~4.1-1600~~ *4.1-600* et seq.) of Title 4.1;

71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by ~~an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body~~ *a licensed marijuana testing facility*, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under ~~Chapter 16 (§ 4.1-1600 et seq.)~~ *Subtitle II (§ 4.1-600 et seq.)* of Title 4.1;

72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit;

73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

75. Violating any provision of § 59.1-466.8;

76. Violating subsection F of § 36-96.3:1;

77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any kratom product that does not include a label listing all ingredients and with the following guidance: "This product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose, treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the plant Mitragyna speciosa or any extract thereof; and

78. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any such good or provision of any such continuous service.

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the

Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

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.

3. That the following provisions shall become effective on May 1, 2025: (i) §§ 2.2-2499.8, as amended by this act, 3.2-4113, 4.1-1121, 4.1-1601, 4.1-1604, 16.1-260, 16.1-273, 16.1-278.9, 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, 18.2-308.4, 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, 19.2-389.3, as it is currently effective and as it shall become effective, 19.2-392.02, 19.2-392.6, 22.1-277.08, 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 act; (ii) §§ 4.1-1102 through 4.1-1105, 4.1-1106, 4.1-1113, 4.1-1114, 4.1-1115, 4.1-1117, 4.1-1118, 4.1-1119, 4.1-1300, 4.1-1301, and 4.1-1303 through 4.1-1309 of the Code of Virginia, as created 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 repealed by this act.

4. That the Virginia Cannabis Control Authority (the Authority) may, on and after September 1, 2024, begin accepting license applications from all applicants, including pharmaceutical processors and cannabis dispensing facilities that hold a permit pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and industrial hemp processors or growers that are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia, and issuing licenses pursuant to the provisions of § 4.1-1000 of the Code of Virginia, as created by this act. Notwithstanding the third enactment of this act, any applicant issued a license by the Authority may operate in accordance with the provisions of this act prior to May 1, 2025; however, prior to May 1, 2025, no licensee may engage in the retail sale of marijuana, marijuana products, immature marijuana plants, or marijuana seeds. Notwithstanding any other provision of law, on or after September 1, 2024, and prior to May 1, 2025, no marijuana cultivation facility licensee, marijuana processing facility licensee, marijuana transporter licensee, retail marijuana store licensee, or marijuana testing facility licensee or agent or employee thereof shall be subject to arrest or prosecution for a violation of Chapter 11 (§ 4.1-1100 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, 18.2-255.2, 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 act, or § 18.2-248.1 of the Code of Virginia, as repealed by this act, involving marijuana if such violation is related to acts committed within the scope of the licensure or employment and in accordance with the provisions of the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia) and this enactment. From September 1, 2024, to September 1, 2029, the Authority shall reserve license slots for all pharmaceutical processors and cannabis dispensing facilities that have been issued a permit by the Board of Directors (the Board) of the Authority pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and issue applicable licenses for any location for which such a permit has been issued, provided the applicable licensing requirements are met. The Board shall not permit any marijuana cultivation facility licensee to engage in the outdoor growth of marijuana plants until the Board has promulgated regulations governing outdoor growth pursuant to § 4.1-606 of the Code of Virginia, as amended by this act. Priority for tier IV and tier V marijuana cultivation facility licenses shall be given to pharmaceutical processors that have been issued a permit by the Board pursuant to Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1 of the Code of Virginia and no less than five industrial hemp processors or growers that are registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2 of the Code of Virginia and completed such registration prior to January 1, 2021.

5. That the Board of Directors of the Virginia Cannabis Control Authority shall establish a seed-to-sale tracking system pursuant to § 4.1-611 of the Code of Virginia by December 31, 2024.

6. That the Virginia Cannabis Control Authority (the Authority) shall (i) analyze whether any limits should be placed on the number of licenses issued to operate a marijuana establishment, (ii) analyze and identify any necessary adjustments regarding canopy limits for marijuana cultivation facility licensees, and (iii) report its finding to the General Assembly by November 1, 2025. The Authority shall continue such analysis and submit updated findings to the General Assembly for two years after such initial report prior to November 1 during the two subsequent years.

7. That the Board of Directors (the Board) of the Virginia Cannabis Control Authority shall promulgate regulations to implement the provisions of this act by December 31, 2024. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the Board's initial adoption of such regulations.

8. That, from July 1, 2024, to July 1, 2025, the Virginia Cannabis Control Authority (the Authority) shall deposit 75 percent of all funds collected through marijuana establishment annual license fees into the Cannabis Equity Business Loan Fund established pursuant to § 4.1-1501 of the Code of Virginia, as amended by this act. Such deposits shall occur within 60 days of the Authority's receipt of such license fees.

9. That the initial referendum authorized by § 4.1-629 of the Code of Virginia, as created by this act, on the question of whether the operation of retail marijuana stores shall be prohibited in a particular locality shall be held and results certified by December 31, 2024. A referendum on such question shall not be permitted in a locality after January 1, 2025, unless such referendum follows a referendum held prior to December 31, 2024, and any subsequent referendum, in which a majority of the qualified voters voting in such referendum voted "Yes" to prohibit the operation of retail marijuana stores.

10. That the provisions of the first enactment amending subsection B of § 4.1-614 of the Code of Virginia, as amended by this act, shall become effective July 1, 2026.

11. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1. Drugs

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty

A. It shall be unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, imitation controlled substance, or marijuana while:

1. Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § 22.1-289.02;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, imitation controlled substance, or marijuana on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the controlled substance, imitation controlled substance, or marijuana. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than $100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) or more than one-half ounce of marijuana shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance or marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance or marijuana to use or become addicted to or dependent upon such controlled substance or marijuana, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by

this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

1982, c. 594; 1989, cc. 619, 682, 709; 1990, cc. 617, 622; 1991, c. 268; 1991, 1st Sp. Sess., c. 14; 1993, cc. 30, 708, 729; 1999, c. 873;2000, cc. 1020, 1041;2003, cc. 80, 91;2004, c. 461;2005, c. 716; 2006, c. 325;2011, cc. 384, 410;2014, cc. 674, 719;2020, cc. 860, 861.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1. Drugs

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than $1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2c;

3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain cocaine base; or

4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;

c. The offense did not result in death or serious bodily injury to any person;

d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and

e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than $500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date

of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of $10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become

addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which imitates a controlled substance classified in Schedule V or Schedule VI, shall be guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which imitates a controlled substance classified in Schedule I, II, III, or IV shall be guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains cocaine base;

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;(ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise shall be guilty of a felony if (i) the enterprise received at least $100,000 but less than $250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A conviction under this section shall be punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received $250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.

I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a continuing series of violations of this section which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and from which such person obtains substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

Code 1950, § 54-524.101:1; 1972, c. 798; 1973, c. 479; 1974, c. 586; 1975, cc. 14, 15; 1976, c. 614; 1977, c. 409; 1978, cc. 177, 779; 1979, c. 435; 1982, cc. 276, 462; 1985, c. 569; 1986, c. 453; 1988, c. 355; 1990, c. 82; 1991, c. 13; 1992, cc. 685, 737, 756; 1995, c. 538;1999, c. 722;2000, cc. 1020, 1041;2004, c. 461;2005, cc. 174, 759, 796, 923, 941;2006, cc. 697, 759;2008, cc. 79, 618;2009, c. 750;2012, cc. 219, 710, 844;2013, c. 426;2014, c. 513.

The chapters of the acts of assembly referenced in the historical citation at the end of this

section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1. Drugs

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than $1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2c;

3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain cocaine base; or

4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;

c. The offense did not result in death or serious bodily injury to any person;

d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and

e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than $500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date

of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of $10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become

addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which imitates a controlled substance classified in Schedule V or Schedule VI, shall be guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which imitates a controlled substance classified in Schedule I, II, III, or IV shall be guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains cocaine base;

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;(ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise shall be guilty of a felony if (i) the enterprise received at least $100,000 but less than $250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A conviction under this section shall be punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received $250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.

I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a continuing series of violations of this section which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and from which such person obtains substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

Code 1950, § 54-524.101:1; 1972, c. 798; 1973, c. 479; 1974, c. 586; 1975, cc. 14, 15; 1976, c. 614; 1977, c. 409; 1978, cc. 177, 779; 1979, c. 435; 1982, cc. 276, 462; 1985, c. 569; 1986, c. 453; 1988, c. 355; 1990, c. 82; 1991, c. 13; 1992, cc. 685, 737, 756; 1995, c. 538;1999, c. 722;2000, cc. 1020, 1041;2004, c. 461;2005, cc. 174, 759, 796, 923, 941;2006, cc. 697, 759;2008, cc. 79, 618;2009, c. 750;2012, cc. 219, 710, 844;2013, c. 426;2014, c. 513.

The chapters of the acts of assembly referenced in the historical citation at the end of this

section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1. Drugs

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he shall be fined not more than $500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than $1 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence:

1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;

2. 500 grams or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation that contains any quantity of any of the substances referred to in subdivisions 2a through 2c;

3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain cocaine base; or

4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall not be applicable if the court finds that:

a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;

b. The person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so;

c. The offense did not result in death or serious bodily injury to any person;

d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I; and

e. Not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction, be imprisoned for not less than 10 nor more than 40 years and fined not more than $500,000. Upon a second conviction of such a violation, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years, and be fined not more than $500,000. When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment, or information that he has been previously convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date

of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production. This restitution shall include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property. If the property that is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is property owned in whole or in part by the person convicted, the court shall order the person to pay to the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated expenses cannot be determined, the sum of $10,000. The convicted person shall also pay the cost of certifying that any building that is cleaned up or repaired pursuant to this section is safe for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

D. If such person proves that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be guilty of a Class 5 felony.

E. If the violation of the provisions of this article consists of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall be guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV shall be guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become

addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which imitates a controlled substance classified in Schedule V or Schedule VI, shall be guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which imitates a controlled substance classified in Schedule I, II, III, or IV shall be guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains cocaine base;

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;(ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise shall be guilty of a felony if (i) the enterprise received at least $100,000 but less than $250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

A conviction under this section shall be punishable by a fine of not more than $1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

H2. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received $250,000 or more in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine base;

4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than $1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such punishment shall be made to run consecutively with any other sentence. However, the court may impose a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated with law-enforcement authorities.

I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he violates any provision of this section, the punishment for which is a felony and either (ii) such violation is a part of a continuing series of violations of this section which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and from which such person obtains substantial income or resources or (iii) such violation is committed, with respect to methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any two or more different substances listed below with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane, or 2-propanone.

K. The term "methamphetamine precursor drug," when used in this article, means a drug or product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers.

Code 1950, § 54-524.101:1; 1972, c. 798; 1973, c. 479; 1974, c. 586; 1975, cc. 14, 15; 1976, c. 614; 1977, c. 409; 1978, cc. 177, 779; 1979, c. 435; 1982, cc. 276, 462; 1985, c. 569; 1986, c. 453; 1988, c. 355; 1990, c. 82; 1991, c. 13; 1992, cc. 685, 737, 756; 1995, c. 538;1999, c. 722;2000, cc. 1020, 1041;2004, c. 461;2005, cc. 174, 759, 796, 923, 941;2006, cc. 697, 759;2008, cc. 79, 618;2009, c. 750;2012, cc. 219, 710, 844;2013, c. 426;2014, c. 513.

The chapters of the acts of assembly referenced in the historical citation at the end of this

section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 54.1. Professions and Occupations
Subtitle III. Professions and Occupations Regulated by Boards within the Department of Health Professions
Chapter 34. Drug Control Act
Article 1. General Provisions

§ 54.1-3401. Definitions

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in

the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed advanced practice registered nurse or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any

substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, an advanced practice registered nurse, a physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds,

or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112;(v) an industrial hemp extract, as defined in § 3.2-5145.1;or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed advanced practice registered nurse pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to §

503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"Total tetrahydrocannabinol" means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

Code 1950, §§ 54-399, 54-487; 1952, c. 451; 1958, c. 551, § 54-524.2; 1966, c. 193; 1968, c. 582; 1970, c. 650; 1971, Ex. Sess., c. 94; 1972, c. 798; 1975, c. 425; 1976, c. 14; 1977, c. 193; 1978, c. 833; 1979, c. 435; 1980, c. 150; 1988, c. 765; 1991, cc. 519, 524; 1992, cc. 737, 793; 1996, cc. 37, 152, 158, 407, 408;1997, cc. 20, 677, 806;1998, c. 470;1999, cc. 661, 750;2000, cc. 861, 878, 935; 2003, cc. 509, 639, 995;2005, cc. 475, 839;2006, c. 346;2012, c. 213;2013, cc. 412, 504, 544, 765; 2014, cc. 674, 719;2015, cc. 158, 180, 300;2016, cc. 221, 495;2017, cc. 115, 429;2018, cc. 241, 242, 689, 690;2019, cc. 653, 654;2020, cc. 831, 1285, 1286;2021, Sp. Sess. I, c. 110;2023, cc. 183, 744, 794.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia
Title 18.2. Crimes and Offenses Generally
Chapter 7. Crimes Involving Health and Safety
Article 1. Drugs

§ 18.2-248.1. Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana

Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to sell, give, distribute or possess with intent to sell, give, or distribute marijuana.

(a) Any person who violates this section with respect to:

(1) Not more than one ounce of marijuana is guilty of a Class 1 misdemeanor;

(2) More than one ounce but not more than five pounds of marijuana is guilty of a Class 5 felony;

(3) More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years.

There shall be a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use.

If such person proves that he gave, distributed, or possessed with intent to give or distribute marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the marijuana to use or become addicted to or dependent upon such marijuana, he is guilty of a Class 1 misdemeanor.

(b) Any person who gives, distributes, or possesses marijuana as an accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility, as defined in § 53.1-1, or in the custody of an employee thereof is guilty of a Class 4 felony.

(c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture such substance, not for his own use is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed $10,000.

(d) When a person is convicted of a third or subsequent felony offense under this section and it is alleged in the warrant, indictment or information that he has been before convicted of two or more felony offenses under this section or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth, and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for any period not less than five years, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than $500,000.

1979, c. 435; 1986, c. 467; 2000, cc. 819, 1020, 1041;2004, c. 461;2006, cc. 697, 759;2020, cc. 1285, 1286.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters

whose provisions have expired.

4/23/2024

Code of Virginia

Alcoholic Beverage and Cannabis Control

Subtitle I. Alcoholic Beverage Control Act

Chapter 1. Definitions and General Provisions.

§ 4.1-100. Definitions.

As used in this subtitle unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and

breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a winery or farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an

agreement with the winery or farm winery licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a winery or farm winery shall be considered to be wine owned and produced by the winery or farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the winery or farm winery for its services. A winery licensee may utilize contract winemaking services only for the manufacture or processing of wine of which no less than 90 percent of the grapes, fruits, and other agricultural products used to make such wine are grown in the Commonwealth.

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219, and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the term "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as

an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this subtitle.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such

building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

Code 1950, §§ 4-2, 4-99; 1952, c. 496; 1954, c. 682; 1962, c. 533; 1968, c. 7, § 4-98.1; 1970, cc. 302, 309; 1974, cc. 460, 497; 1975, c. 408; 1976, cc. 64, 702; 1977, c. 280; 1980, cc. 324, 490; 1983, c. 340; 1984, c. 200; 1985, cc. 448, 457; 1988, c. 261, § 4-127; 1990, cc. 707, 932; 1991, c. 426; 1993, cc. 190, 866, 910; 1995, cc. 497, 518, 661; 1996, cc. 558, 604; 1997, cc. 124, 425; 1999, cc. 93, 171, 481; 2000, cc. 786, 1037,

1052; 2005, c. 911; 2006, c. 714; 2007, cc. 101, 295, 454, 558; 2008, cc. 198, 513, 875; 2013, cc. 107, 117; 2014, cc. 124, 510; 2015, cc. 25, 38, 54, 288, 348, 730, 735; 2016, cc. 324, 710; 2017, cc. 152, 157, 160, 492, 585, 741; 2018, c. 337; 2019, cc. 37, 178, 466, 628; 2020, cc. 755, 1009, 1010, 1113, 1114; 2023, c. 731.

§ 4.1-101. Virginia Alcoholic Beverage Control Authority created; public purpose.

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Alcoholic Beverage Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which alcoholic beverages are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

B. The Virginia Alcoholic Beverage Control Authority shall consist of the Virginia Alcoholic Beverage Control Board of Directors, the Chief Executive Officer, and the agents and employees of the Authority. The Virginia Alcoholic Beverage Control Authority shall be deemed successor in interest to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Board.

C. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that the Board of Directors of the Authority might otherwise have under any other law of the Commonwealth.

Code 1950, § 4-6; 1976, c. 64; 1993, c. 866; 2015, cc. 38, 730.

§ 4.1-101.01. Board of Directors; membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a

related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.02. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board

deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this subtitle.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.03. Background investigations of Board members and Chief Executive Officer.

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any

federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages within the five years immediately preceding appointment.

2015, cc. 38, 730.

§ 4.1-101.04. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle or in any entity that has submitted an application for a license under Chapter 2 (§ 4.1-200 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

2015, cc. 38, 730.

§ 4.1-101.05. Employees of the Authority.

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to special agents and employees of the Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the Department of Alcoholic Beverage Control (the Department) to the Authority, the Authority shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the Department will end or be transferred to the Authority. This date shall be stated in the written notice

and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set beyond December 31, 2018. Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the Department of Alcoholic Beverage Control who (i) is not offered the opportunity to transfer to employment by the Authority or (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.

2015, cc. 38, 730; 2017, cc. 698, 707, 742; 2020, c. 1137.

§ 4.1-101.06. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-116.

2015, cc. 38, 730.

§ 4.1-101.07. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible

or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.08. Leases of property.

The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

2015, cc. 38, 730.

§ 4.1-101.09. Exemptions from taxes or assessments.

The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

2015, cc. 38, 730.

§ 4.1-101.010. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.011. Reversion to the Commonwealth.

In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the Commonwealth.

2015, cc. 38, 730.

§ 4.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the

Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

2011, c. 566; 2015, c. 412.

§ 4.1-102. Repealed.

Repealed by Acts 2015, cc. 38 and 730, cl. 3, effective July 1, 2018.

§ 4.1-103. General powers of Board.

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;

5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful

performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

12. Buy and sell any mixers;

13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this subtitle, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include

powdered or crystalline alcohol;

20. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage casino licensee pursuant to subdivision A 15 of § 4.1-206.3 pay for any cost incurred by the Board to enforce such license in excess of the applicable state

license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this subtitle.

Code 1950, § 4-7; 1974, c. 460; 1982, c. 647; 1984, c. 200; 1993, c. 866; 1996, c. 558; 2015, cc. 25, 38, 730, 735; 2016, c. 21; 2017, cc. 698, 707; 2020, cc. 1113, 1114; 2022, cc. 589, 590.

§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.

A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner shall provide to the Board the name, address, and other identifying information within his possession of all wholesale cigarette dealers.

B. All invoices, books, papers or other memoranda and records concerning the sale of cigarettes maintained by wholesale cigarette dealers pursuant to § 58.1-1007 shall be subject to inspection during normal business hours by special agents of the Board. Any person who, upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records authorized by this subsection shall be guilty of a Class 2 misdemeanor.

C. The Board may use the information obtained from the Tax Commissioner or by the inspections authorized by subsection B only for the purpose of creating and maintaining a list of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors. Neither the Board nor any special agent shall divulge any information provided by the Tax Commissioner or obtained in the performance of the inspections authorized by subsection B to anyone other than to another special agent. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

1998, cc. 189, 364.

§ 4.1-103.02. Additional powers; substance abuse prevention; Virginia Institutions of Higher Education Substance Use Advisory Committee established.

It shall be the responsibility of the Board to administer a substance abuse prevention program within the Commonwealth and to (i) coordinate substance abuse prevention activities of agencies of the Commonwealth in such program, (ii) review substance abuse prevention program expenditures by agencies of the Commonwealth, and (iii) determine the direction and appropriateness of such expenditures. The Board shall cooperate with federal, state, and local agencies, private and public agencies, interested organizations, and individuals in order to prevent substance abuse within the Commonwealth. The Board shall report annually by December 1 of each year to the Governor and the General Assembly on the substance abuse prevention activities of the Commonwealth.

The Board shall also establish and appoint members to the Virginia Institutions of Higher Education Substance Use Advisory Committee (Advisory Committee). The goal of the Advisory Committee shall be to develop and update a statewide strategic plan for substance use education, prevention, and intervention at Virginia's public and private institutions of higher education. The strategic plan shall (a) incorporate the use of best practices, which may include, but not be limited to, student-led peer-to-peer education and college or other institution of higher education recovery programs; (b) provide for the collection of statewide data from all institutions of higher education on student alcohol and

substance use; (c) assist institutions of higher education in developing their individual strategic plans by providing networking and training resources and materials; and (d) develop and maintain reporting guidelines for use by institutions of higher education in their individual strategic plans.

The Advisory Committee shall consist of representatives from Virginia's public and private institutions of higher education, including students and directors of student health, and such other members as the Board may deem appropriate. The Advisory Committee's membership shall be broadly representative of individuals from both public and private institutions of higher education.

The Advisory Committee shall submit an annual report on its activities to the Governor and the General Assembly on or before December 1 each year.

2012, cc. 803, 835; 2018, cc. 210, 211.

§ 4.1-103.03. Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 21 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or

other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

2017, cc. 698, 707; 2020, cc. 1113, 1114.

§ 4.1-103.1. Criminal history records check required on certain employees; reimbursement of costs.

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

1994, c. 34; 2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-104. Purchases by the Board.

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

Code 1950, § 4-18; 1993, c. 866; 1996, c. 558; 2008, c. 135; 2016, c. 21.

§ 4.1-105. Police power of members, agents and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

Code 1950, § 4-8; 1993, c. 866; 1997, cc. 812, 882; 2000, cc. 880, 901; 2006, c. 695.

§ 4.1-106. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

Code 1950, § 4-12; 1993, c. 866.

§ 4.1-107. Counsel for members, agents and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

Code 1950, § 4-20; 1958, c. 542; 1993, c. 866.

§ 4.1-108. Hearings; representation by counsel.

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine and question witnesses; present evidence on behalf of the corporation; and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

1989, c. 266, § 4-10.1; 1993, c. 866.

§ 4.1-109. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

Code 1950, § 4-10; 1954, c. 709; 1993, c. 866.

§ 4.1-110. Purchase orders of Board for alcoholic beverages.

A. Every order of the Board for the purchase of alcoholic beverages shall be authenticated by the chairman or by a member or agent of the Board, authorized by the Board to authenticate such orders. No order shall be binding unless so authenticated.

B. A duplicate of every such order shall be kept on file in the office of the Board in accordance with retention regulations established pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

C. All cancellations of orders made by the Board shall be authenticated in the same manner and a duplicate kept as required by subsection B.

Code 1950, § 4-17; 1972, c. 138; 1984, c. 469; 1993, c. 866.

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this subtitle, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this subtitle and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this subtitle.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees, except for mixed beverage casino licensees, to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each

applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

Code 1950, §§ 4-11, 4-36; 1968, c. 7, §§ 4-98.5, 4-98.14; 1974, c. 460; 1982, c. 145; 1991, c. 690; 1992, c. 220; 1993, cc. 433, 866; 1997, c. 40; 1998, c. 301; 1999, cc. 98, 641; 2003, c. 856; 2008, c. 513; 2009, c. 122; 2010, c. 481; 2011, c. 728; 2012, cc. 376, 760, 818; 2015, cc. 404, 412; 2017, cc. 160, 743, 744; 2019, cc. 7, 29, 706; 2020, cc. 1113, 1114; 2022, cc. 589, 590.

§ 4.1-112. Regulations relating to transportation of beer and wine coolers.

The Board may promulgate regulations relating to the transportation of beer and wine coolers through the Commonwealth, including a prohibition against the direct shipment of beer or wine coolers from points outside the Commonwealth to installations of the United States armed forces located within the Commonwealth for resale on such installation.

1988, c. 261, § 4-144; 1993, c. 866.

§ 4.1-112.1. Repealed.

Repealed by Acts 2007, cc. 99 and 799, cl. 2.

§ 4.1-112.2. Outdoor advertising; limitations; variances; compliance with Title 33.2.

A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to alcoholic beverage advertising.

E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located; or

2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2012, cc. 760, 818.

§ 4.1-113. Board not to regulate certain advertising in the interiors of retail establishments.

A. The Board shall not regulate the use of advertising materials or decorations within the premises of a retail on-premises licensee (i) where such advertising materials or decorations cannot be seen from the street or roadway outside of the licensed establishment and (ii) if the retail establishment is located within an enclosed area with no street or roadway, where such advertising or decorations cannot be seen more than fifteen feet from the nearest window.

B. This section shall not restrict the regulation of advertising materials or decorations containing references to an alcoholic beverage brand or manufacturer, except the Board shall not regulate such

references contained in works of art.

C. This section shall not restrict or deny the Board its authority pursuant to §§ 4.1-216, 4.1-317, and subdivisions 11, 12, 13, 16, and 21 of § 4.1-325, nor shall this section authorize any manufacturer, bottler, wholesaler or importer of any alcoholic beverages to sell, rent, lend, buy for, or give to any retailer any advertising materials or decorations under any circumstances otherwise prohibited by law.

1981, c. 574, § 4-69.2; 1993, c. 866.

§ 4.1-113.1. Outdoor advertising; compliance with Title 33.2.

All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2012, cc. 326, 618.

§ 4.1-114. Annual review of operations of certain mixed beverage licensees.

The Board shall at least annually review the operations of each establishment holding a mixed beverage restaurant license and each person holding a caterer's license to determine whether during the preceding license year such licensee has met the food-beverage ratio required by § 4.1-206.3. If not met, the license granted to such licensee may be suspended or revoked. If the license is revoked, no new license may be granted to the licensee with respect to such establishment or catering business for at least one year from the date of the revocation. For the purposes of this section and § 4.1-206.3, "nonalcoholic beverage" shall not include any beverages, ice, water or other mixer served with an alcoholic beverage.

1968, c. 7, § 4-98.7; 1980, c. 490; 1981, c. 565; 1986, c. 374; 1990, c. 402; 1993, c. 866; 2020, cc. 1113, 1114.

§ 4.1-115. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;

2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;

3. A statement showing the taxes collected under this subtitle during the year;

4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and

5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

Code 1950, § 4-13; 1984, c. 734; 1993, c. 866; 2004, c. 650; 2005, c. 633.

§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this subtitle, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within fifty days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of $2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

Code 1950, §§ 4-22, 4-23; 1960, c. 104; 1962, c. 385; 1964, c. 215; 1966, c. 431; 1968, c. 623; 1970, c. 727; 1972, cc. 138, 849; 1973, c. 349; 1974, c. 460; 1981, c. 514; 1982, c. 540; 1983, c. 427; 1984, c. 105; 1985, c. 222; 1993, c. 866.

§ 4.1-117. Disposition of net profits to localities.

When the moneys transferred quarterly or as otherwise provided in the appropriation act by the Comptroller to the general fund of the state treasury exceed the sum of $187,500, two-thirds of all

moneys in excess of $187,500 shall be apportioned by the Comptroller and distributed quarterly within ten days following such transfer. Such payments shall be made by the Comptroller drawn on the Treasurer of Virginia to the several counties, cities, and towns of the Commonwealth, appropriated on the basis of the population of the respective counties, cities, and towns, according to the last preceding United States census. However, in the case of any town which came into existence in or about the year 1691 which is now the county seat of any county having a population of less than 45,000 but more than 40,000, and the boundaries of such town are not fixed, such portion of the moneys appropriated shall be based on an estimate of the population of such town made by the Center for Public Service. The judge of the circuit court of the county in which the town or city or greater part thereof seeking an increase under the provisions of this chapter is located may appoint two disinterested persons as commissioners, neither of whom shall reside in the county, city, or town which is the subject of the annexation proceedings. The commissioners so appointed shall determine the population of the territory annexed to the town or city as of the date of the last preceding United States census and report their findings to the court, and future distributions of the moneys allocated under the provisions of this chapter shall be made in accordance therewith. The Comptroller shall make no adjustments in his distribution of profits until the Secretary of the Commonwealth transmits to the Comptroller, pursuant to § 15.2-3209, a copy of the court order granting the petition of annexation.

Code 1950, § 4-22; 1960, c. 104; 1962, c. 385; 1964, c. 215; 1966, c. 431; 1968, c. 623; 1970, c. 727; 1972, c. 849; 1973, c. 349; 1974, c. 460; 1981, c. 514; 1982, c. 540; 1983, c. 427; 1984, c. 105; 1985, c. 222; 1993, c. 866.

§ 4.1-118. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this subtitle and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the licensee.

1988, c. 261, § 4-145; 1993, c. 866; 1994, c. 179.

§ 4.1-119. (Effective until July 1, 2024) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of spirits, nonalcoholic spirit alternatives, wine produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this subtitle and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this subtitle, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises or off-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

Code 1950, § 4-15; 1958, c. 269; 1962, c. 453; 1970, c. 351; 1983, c. 267; 1984, c. 200; 1992, c. 782; 1993, cc. 252, 866; 1996, c. 558; 1999, c. 98; 2005, c. 651; 2006, c. 106; 2007, cc. 546, 726, 820; 2008, c. 609; 2009, c. 620; 2010, cc. 115, 170, 517; 2011, c. 713; 2012, c. 344; 2013, c. 476; 2014, cc. 437, 724; 2015, cc. 38, 62, 604, 730; 2016, cc. 21, 132, 141; 2017, cc. 75, 125, 155, 160; 2018, c. 734; 2019, cc. 37, 178, 466, 810, 811, 814; 2020, cc. 1017, 1113, 1114; 2021, Sp. Sess. I, cc. 281, 282, 288; 2022, c. 194.

§ 4.1-119. (Effective July 1, 2024) Operation of government stores.

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of spirits, nonalcoholic spirit alternatives, wine produced by farm wineries, low alcohol beverage coolers produced by licensed distillers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this subtitle and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's

license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this subtitle, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision A 6 of § 4.1-201 to be (a)(1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or

vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties, and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

Code 1950, § 4-15; 1958, c. 269; 1962, c. 453; 1970, c. 351; 1983, c. 267; 1984, c. 200; 1992, c. 782; 1993, cc. 252, 866; 1996, c. 558; 1999, c. 98; 2005, c. 651; 2006, c. 106; 2007, cc. 546, 726, 820; 2008, c. 609; 2009, c. 620; 2010, cc. 115, 170, 517; 2011, c. 713; 2012, c. 344; 2013, c. 476; 2014, cc. 437, 724; 2015, cc. 38, 62, 604, 730; 2016, cc. 21, 132, 141; 2017, cc. 75, 125, 155, 160; 2018, c. 734; 2019, cc. 37, 178, 466, 810, 811, 814; 2020, cc. 1017, 1113, 1114; 2022, c. 194.

§ 4.1-119.1. Human trafficking hotline; posted notice required.

Within each government store, except for government stores established on a distiller's licensed premises pursuant to subsection D of § 4.1-119, the Authority shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements

specified in subsection C of § 40.1-11.3.

2019, c. 388.

§ 4.1-120. When government stores closed.

A. Except as provided in subsection B, no sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

1. On Sunday;

2. On Thanksgiving Day, Christmas Day and New Year's Day; or

3. During such other periods and on such other days as the Board may direct.

B. Certain government stores, as determined by the Board, may be open on Sunday for the sale of alcoholic beverages after 10:00 a.m.

Code 1950, § 4-19; 1972, c. 138; 1992, c. 129; 1993, c. 866; 2004, c. 1002; 2008, c. 134; 2012, c. 245; 2019, cc. 810, 811.

§ 4.1-121. Referendum on establishment of government stores.

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be prohibited in ..... (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

Code 1950, § 4-45; 1954, c. 221; 1974, c. 399; 1975, c. 517; 1977, c. 683; 1980, cc. 541, 543; 1984, c. 200; 1993, c. 866; 2015, cc. 38, 730; 2019, cc. 37, 178.

§ 4.1-122. Effect of local option referenda.

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this subtitle to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such alcoholic beverages may, in accordance with this subtitle, be sold within the county, city, or town on and after 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this subtitle.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

Code 1950, § 4-46; 1954, c. 221; 1974, c. 460; 1975, c. 482; 1977, c. 683; 1980, cc. 541, 543; 1982, cc. 66, 204; 1984, c. 200; 1991, c. 690; 1993, c. 866; 2019, cc. 37, 178.

§ 4.1-123. Referendum on Sunday wine and beer sales; exception.

A. Either the qualified voters or the governing body of any county, city, town, or supervisor's election district of a county may file a petition with the circuit court of the county or city or of the county wherein the town or the greater part thereof is situated asking that a referendum be held on the question of whether the sale of beer and wine on Sunday should be permitted within that jurisdiction. The petition of voters shall be signed by qualified voters equal in number to at least ten percent of the number registered in the jurisdiction on January 1 preceding its filing or at least 100 qualified voters,

whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of wine and beer between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday be permitted in _____ (name of county, city, town, or supervisor's election district of the county)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

Notwithstanding an ordinance adopted pursuant to § 4.1-129, an affirmative majority vote on the question shall be binding on the governing body of the county, city, or town, and the governing body shall take all actions required of it to legalize such Sunday sales.

B. Notwithstanding the provisions of subsection A or § 4.1-129, where property that constitutes a farm winery lies within, or abuts, the boundaries of Floyd and Patrick Counties, the retail sale of wine by the farm winery licensee in the county that restricts the sale of wine and beer shall be allowed at one fixed location on a parcel of land that contains all or part of the licensee's producing vineyard and the licensee's vinification facilities.

The Board may refuse to allow such licensee the exercise of his retail sales privilege in the county restricting the Sunday sale of wine and beer if the Board determines, after giving the licensee notice and a hearing, that (i) the owner of the farm winery had actual knowledge that the vinification facilities and all or part of the producing vineyard were going to be located in the county restricting the sale of wine and beer prior to construction of the vinification facilities or (ii) the primary business purpose of the farm winery licensee is to engage in the retail sale of wine in such county rather than the business of a farm winery.

Nothing in this subsection shall apply to a farm winery licensee that has a retail establishment for the sale of its wine in the county adjoining the county that restricts the Sunday sale of wine and beer if the retail establishment is within one-half mile of the farm winery's vinification facilities.

1979, c. 621, § 4-96.3; 1980, c. 543; 1993, c. 866; 2001, cc. 594, 783; 2007, c. 813.

§ 4.1-124. Referendum on the sale of mixed beverages.

A. The provisions of this subtitle relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this subtitle should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county,

or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this subtitle should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election

district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

1968, c. 7, §§ 4-98.12, 4-98.13; 1975, c. 517; 1979, c. 199; 1982, c. 31; 1985, c. 551; 1986, c. 70; 1988, c. 156; 1991, c. 690; 1993, c. 866; 1995, c. 177; 1997, c. 126; 2011, c. 560; 2015, cc. 38, 730; 2019, cc. 37, 178; 2020, cc. 1113, 1114.

§ 4.1-125. Section 4.1-124 applicable to certain towns.

The provisions of § 4.1-124 shall be applicable mutatis mutandis to any town within the Commonwealth which is entirely surrounded by a base of the United States armed forces.

1968, c. 761, § 4-98.12:1; 1993, c. 866.

§ 4.1-126. Repealed.

Repealed by Acts 2019, cc. 37 and 178, cl. 4, effective July 1, 2020.

§ 4.1-127. Contests of local option referenda.

The regularity or legality of any referendum held pursuant to §§ 4.1-121, 4.1-123 and 4.1-124 shall be subject to the inquiry, determination, and judgment of the circuit court which ordered the referendum. The court shall proceed upon complaint of fifteen or more qualified voters of the county, city, or town, filed within thirty days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the court entered of record shall be a final determination of the regularity and legality of the referendum.

Code 1950, § 4-47; 1993, c. 866.

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

Code 1950, § 4-98; 1983, c. 340; 1993, c. 866; 2000, cc. 381, 450; 2007, cc. 140, 454; 2015, cc. 38, 730; 2017, cc. 157, 492.

§ 4.1-129. Local ordinances regulating time of sale of wine and beer.

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, prohibiting the sale of wine or beer, or both, between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday, or fixing hours within such period during which wine or beer, or both, may be sold. Such governing bodies shall provide for fines and other penalties for violations of any such ordinances which shall be enforced as if the violations were Class 1 misdemeanors, with a right of appeal pursuant to § 16.1-106. Such ordinances shall not affect the sale of wine and beer on common carriers of passengers by train, boat, or airplane.

A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing body adopting it and transmitted to the Board.

On and after the effective date of any ordinance adopted pursuant to this section, no retail licensee authorized to sell wine or beer, or both, shall sell or permit the drinking of wine or beer on the premises of such licensee during the hours limited by the ordinance.

Code 1950, § 4-97; 1993, c. 866.

§ 4.1-130. Importation of beverages not under customs or internal revenue bonds; storage in approved warehouses; release.

A. Notwithstanding the provisions of § 4.1-311, alcoholic beverages not under United States customs bonds or internal revenue bonds may be transported into and stored in the Commonwealth in

warehouses which have been approved by the Board for that purpose.

The Board may refuse to approve any warehouse as a place where alcoholic beverages may be stored if it has reasonable cause to believe that the owner or operator of the warehouse is a person to whom or the place sought to be approved is one for which the Board may refuse to grant a license under the provisions of § 4.1-222, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

The Board may disapprove any warehouse which has been approved as a place where alcoholic beverages may be stored if it has reasonable cause to believe that a ground exists for which the Board may suspend or revoke a license under the provisions of § 4.1-225, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

B. Alcoholic beverages stored in warehouses in the Commonwealth pursuant to this section shall be released only on permits issued by the Board for delivery to the Board or to persons entitled to receive them within or outside the Commonwealth.

1962, c. 200, § 4-84.1; 1993, c. 866; 2022, c. 201.

§ 4.1-131. Importation of beverages under customs bonds and holding in warehouses; release.

A. Alcoholic beverages may be imported into the Commonwealth under United States customs bonds and be held in the Commonwealth in United States customs bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages so imported or removed to such warehouses in the Commonwealth shall be released from customs bonds in the Commonwealth only (i) for delivery to the Board, or to licensees entitled to receive them in the Commonwealth, as provided in § 4.1-311; (ii) to boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, trade between the United States and any of its possessions outside of the several states and the District of Columbia, or for shipment outside of the Commonwealth; or (iii) in accordance with subsection C for the official or personal use of persons who are on duty in the United States as members of the armed forces of any foreign country, or their immediate family, authorized by federal laws and regulations to receive imported alcoholic beverages free of customs duties and internal revenue taxes.

C. Persons operating United States customs bonded warehouses and licensed as wholesalers or retailers may make sales and deliveries, in quantities determined by the Board, of alcoholic beverages held in customs bond to foreign armed forces personnel as provided in subsection B. Such sales may be made only on permits issued by the Board which shall cover the transportation of such imported alcoholic beverages, either by the operator of a customs bonded warehouse or purchaser from the operator, from such customs bonded warehouse to the place of duty or residence of such authorized persons.

Code 1950, § 4-85; 1958, c. 394; 1960, c. 101; 1984, c. 128; 1993, c. 866; 2022, c. 201.

§ 4.1-132. Transportation into or within Commonwealth under internal revenue bond and holding in warehouses; release.

A. Alcoholic beverages may be transported into the Commonwealth under United States internal revenue bonds and be held in the Commonwealth in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages may be transported within the Commonwealth under United States internal revenue bonds and be held in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse and transported to a winery or farm winery licensee in accordance with § 4.1-206.1.

C. Alcoholic beverages so transported or removed to such warehouses in the Commonwealth shall be released from internal revenue bonds in the Commonwealth only on permits issued by the Board for delivery to (i) boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, or trade between the United States and any of its possessions outside of the several states and the District of Columbia; (ii) installations of the United States Department of Defense; or (iii) holders of permits issued in accordance with subdivision A 13 of § 4.1-212.

Code 1950, § 4-86; 1954, c. 21; 1993, c. 866; 2003, c. 564; 2006, c. 826; 2020, cc. 1113, 1114.

§ 4.1-133. Bailment system of warehousing; prohibited fees and charges.

In the event that the Board adopts any regulation or policy providing for bailment warehousing operations or otherwise requiring that a vendor of alcoholic beverages retain ownership or legal title to beverages purchased or ordered for purchase by the Board for any period after the Board or its agent comes into physical possession of such beverages, the Board shall not impose upon any vendor required to provide stock under such bailment system any:

1. Overstock fee or other charge based or premised in whole or in part upon the fact that a vendor has delivered to any warehouse, store or other facility owned or operated by the Board or its agent bailed stock in excess of any maximum inventory level established or suggested by the Board.

2. Space reservation fee or other charge based or premised in whole or in part upon the fact that a vendor has delivered to any warehouse, store or other facility owned or operated by the Board or its agent bailed stock in a quantity less than any minimum inventory level established or suggested by the Board.

3. Fee or charge for the movement of bailed stock within a bailment warehouse or other bailment facility, or from a bailment warehouse or other bailment facility to a work area in proximity to such warehouse or facility, not at the request of the vendor holding legal title to such stock for the purpose of inspecting such stock.

4. Fee or charge for conducting a physical inventory of bailed stock at the request of the vendor holding legal title to such stock, provided that no more than two such requests have been made within the current fiscal year with respect to the particular item or brand of stock that is the subject of the request.

5. Fee or charge for withdrawal of bailed stock by the vendor who retains legal title to such stock.

6. Fee or charge greater than fifteen dollars per hour for the placement of stock on pallets or other

appurtenances designed to facilitate the movement of stock within the warehouse or other facility.

1996, c. 692.

Chapter 2. Administration of Licenses.

Article 1. General Provisions

§ 4.1-200. Exemptions from licensure.

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this subtitle or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an

amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this subtitle. The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

Code 1950, §§ 4-50, 4-89, 4-90; 1954, c. 147; 1970, cc. 113, 541; 1972, cc. 75, 76, 741; 1973, c. 413; 1975, c. 408; 1976, c. 37; 1981, c. 410; 1984, c. 200; 1992, c. 349; 1993, c. 866; 1995, cc. 497, 518; 2001, c. 117; 2006, cc. 274, 740; 2010, c. 294; 2011, c. 8; 2017, c. 741.

§ 4.1-201. Conduct not prohibited by this subtitle; limitation.

A. Nothing in this subtitle or any Board regulation adopted pursuant thereto shall prohibit:

1. Any club licensed under this chapter from keeping for consumption by its members any alcoholic beverages lawfully acquired by such members, provided the alcoholic beverages are not sold, dispensed or given away in violation of this subtitle.

2. Any person from having grain, fruit or fruit products and any other substance, when grown or lawfully produced by him, distilled by any distillery licensee, and selling the distilled alcoholic beverages to the Board or selling or shipping them to any person outside of the Commonwealth in accordance with Board regulations. However, no alcoholic beverages so distilled shall be withdrawn from the place where distilled except in accordance with Board regulations.

3. Any person licensed to manufacture and sell, or either, in the Commonwealth or elsewhere, alcoholic beverages other than wine or beer, from soliciting and taking orders from the Board for such alcoholic beverages.

4. The receipt by a person operating a licensed brewery of deliveries and shipments of beer in closed containers or the sale, delivery or shipment of such beer, in accordance with Board regulations to (i) persons licensed to sell beer at wholesale, (ii) persons licensed to sell beer at retail for the purpose of resale only as provided in subdivision B 4 of § 4.1-216, (iii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

5. The granting of any retail license to a brewery, distillery, or winery licensee, or to an applicant for such license, or to a lessee of such person, a wholly owned subsidiary of such person, or its lessee, provided the places of business or establishments for which the retail licenses are desired are located upon the premises occupied or to be occupied by such distillery, winery, or brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary.

6. The receipt by a distillery licensee of deliveries and shipments of alcoholic beverages, other than wine and beer, in closed containers from other distilleries, or the sale, delivery or shipment of such alcoholic beverages, in accordance with Board regulations, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

7. The receipt by a farm winery or winery licensee of deliveries and shipments of wine in closed containers from other wineries or farm wineries located inside or outside the Commonwealth, or the receipt by a winery licensee or farm winery licensee of deliveries and shipments of spirits distilled from fruit or fruit juices in closed containers from distilleries located inside or outside the Commonwealth to be used only for the fortification of wine produced by the licensee in accordance with Board regulations, or the sale, delivery or shipment of such wine, in accordance with Board regulations, to persons licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Any farm winery or winery licensee from shipping or delivering its wine in closed containers to another farm winery or winery licensee for the purpose of additional bottling in accordance with Board regulations and the return of the wine so bottled to the manufacturing farm winery or winery licensee.

9. Any farm winery or winery licensee from selling and shipping or delivering its wine in closed containers to another farm winery or winery licensee, the wine so sold and shipped or delivered to be used by the receiving licensee in the manufacture of wine. Any wine received under this subsection shall be deemed an agricultural product produced in the Commonwealth for the purposes of § 4.1-219, to the extent it is produced from fresh fruits or agricultural products grown or produced in the

Commonwealth. The selling licensee shall provide to the receiving licensee, and both shall maintain complete and accurate records of, the source of the fresh fruits or agricultural products used to produce the wine so transferred.

10. Any retail on-and-off-premises wine and beer licensee, his agent or employee, from giving a sample of wine or beer to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, or any mixed beverage licensee, his agent or employee, from giving a sample of wine, beer, or spirits to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption. Samples of wine shall not exceed two ounces, samples of beer shall not exceed four ounces, and samples of spirits shall not exceed one-half ounce, unless served as a mixed beverage, in which case a sample of spirits may contain up to one and one-half ounces of spirits. No more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given to any person per day.

11. Any manufacturer, including any vendor authorized by any such manufacturer, whether or not licensed in the Commonwealth, from selling service items bearing alcoholic brand references to on-premises retail licensees or prohibit any such retail licensee from displaying the service items on the premises of his licensed establishment. Each such retail licensee purchasing such service items shall retain a copy of the evidence of his payment to the manufacturer or authorized vendor for a period of not less than two years from the date of each sale of the service items. As used in this subdivision, "service items" mean articles of tangible personal property normally used by the employees of on-premises retail licensees to serve alcoholic beverages to customers including, but not limited to, glasses, napkins, buckets, and coasters.

12. Any employee of an alcoholic beverage wholesaler or manufacturer, whether or not licensed in the Commonwealth, from distributing to retail licensees and their employees novelties and specialties, including wearing apparel, having a wholesale value of $10 or less and that bear alcoholic beverage advertising. Such items may be distributed to retail licensees in quantities equal to the number of employees of the retail establishment present at the time the items are delivered. Thereafter, such employees may wear or display the items on the licensed premises.

13. Any (i) retail on-premises wine and beer licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of wines or beers consisting of samples of not more than five different wines or beers and (ii) mixed beverage licensee, his agent or employee from offering for sale or selling for one price to any person to whom alcoholic beverages may be lawfully sold a flight of distilled spirits consisting of samples of not more than five different spirits products.

14. Any restaurant licensed under this chapter from permitting the consumption of lawfully acquired wine, beer, or cider by bona fide customers on the premises in all areas and locations covered by the license, provided that (i) all such wine, beer, or cider shall have been acquired by the customer from a retailer licensed to sell such alcoholic beverages and (ii) no such wine, beer, or cider shall be brought onto the licensed premises by the customer except in sealed, nonresealable bottles or cans. The licensee may charge a corkage fee to such customer for the wine, beer, or cider so consumed; however, the licensee shall not charge any other fee to such customer.

15. Any winery, farm winery, wine importer, wine wholesaler, brewery, limited brewery, beer importer, beer wholesaler, or distiller licensee from providing to adult customers of licensed retail establishments information about wine, beer, or spirits being consumed on such premises.

16. Any private swim club operated by a duly organized nonprofit corporation or association from allowing members to bring lawfully acquired alcoholic beverages onto the premises of such club and consume such alcoholic beverages on the premises of such club.

B. No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

Code 1950, § 4-89; 1954, c. 147; 1970, cc. 113, 541; 1972, cc. 75, 76; 1973, c. 413; 1975, c. 408; 1981, c. 410; 1984, c. 200; 1992, c. 349; 1993, c. 866; 1995, cc. 253, 317; 1997, c. 386; 2000, c. 786; 2003, c. 630; 2004, c. 379; 2006, cc. 106, 826; 2007, c. 820; 2011, c. 559; 2012, c. 376; 2013, c. 604; 2014, cc. 123, 455; 2015, cc. 404, 604; 2016, c. 26; 2018, c. 172; 2020, cc. 1113, 1114.

§ 4.1-201.1. Conduct not prohibited by this subtitle; tastings conducted by manufacturers, wine or beer wholesalers, and authorized representatives.

A. Manufacturers of alcoholic beverages, whether or not licensed in the Commonwealth, and wine or beer wholesalers may conduct tastings of wine, beer, or spirits within hotels, restaurants, casinos, and clubs licensed for on-premises consumption provided:

1. The tastings are conducted only by (i) employees of such manufacturers or wholesalers or (ii) authorized representatives of such manufacturers or wholesalers, which authorized representatives have obtained a permit in accordance with subdivision A 14 of § 4.1-212;

2. Such employees or authorized representatives are present while the tastings are being conducted;

3. No category of alcoholic beverage products is offered to consumers unless the retail licensee on whose premises the tasting is conducted is licensed to sell that category of alcoholic beverage product;

4. All alcoholic beverage products used in the tasting are served to the consumer by employees of the retail licensee;

5. The quantity of wine, beer, or spirits provided to any person during the tasting does not exceed 16 ounces of beer, six ounces of wine, or one and one-half ounces of spirits; however, for any spirits tastings, no single sample shall exceed one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; and

6. All alcoholic beverage products used in the tasting are purchased from the retail licensee on whose premises the tasting is conducted; except that no more than $100 may be expended by or on behalf of any such manufacturer or wholesaler at any retail licensed premises during any 24-hour period. For the purposes of this subdivision, the $100 limitation shall be exclusive of taxes and gratuities, which gratuities may not exceed 20 percent of the cost of the alcoholic beverages, including taxes, for the alcoholic beverages purchased for the tasting.

B. Manufacturers, wholesalers, and their authorized representatives shall keep complete records of each tasting authorized by this section for a period of not less than two years, which records shall include the date and place of each tasting conducted and the dollar amount expended by the manufacturer, wholesaler, or his agent or representative in the purchase of the alcoholic beverages

used in the tasting.

C. Manufacturers and wholesalers shall be held liable for any violation of this section committed by their employees or authorized representative in connection with their employment or representation at any tasting event.

2006, c. 826; 2007, cc. 452, 722; 2020, cc. 1113, 1114; 2022, cc. 589, 590.

§ 4.1-202. To whom privileges conferred by licenses extend; liability for violations of law.

The privilege of any licensee to sell or serve alcoholic beverages shall extend to such licensee and to all agents or employees of such licensee for the purpose of selling or serving alcoholic beverages under such license. The licensee may be held liable for any violation of this subtitle or any Board regulation committed by such agents or employees in connection with their employment.

1968, c. 7, § 4-98.4; 1981, c. 381, § 4-37.2; 1993, c. 866.

§ 4.1-203. Separate license for each place of business; transfer or amendment; posting; expiration; carriers.

A. Each license granted by the Board shall designate the place where the business of the licensee will be carried on. Except as otherwise provided in §§ 4.1-206.1, 4.1-206.2, and 4.1-206.3, a separate license shall be required for each separate place of business.

B. No license shall be transferable from one person to another, or from one location to another. The Board may permit a licensee to amend the classification of an existing license without complying with the posting and publishing procedures required by § 4.1-230 if the effect of the amendment is to reduce materially the privileges of an existing license. However, if (i) the Board determines that the amendment is a device to evade the provisions of this chapter, (ii) a majority of the corporate stock of a retail licensee is sold to a new entity, or (iii) there is a change of business at the premises of a retail licensee, the Board may, within 30 days of receipt of written notice by the licensee of a change in ownership or a change of business, require the licensee to comply with any or all of the requirements of § 4.1-230. If the Board fails to exercise its authority within the 30-day period, the licensee shall not be required to reapply for a license. The licensee shall submit such written notice to the Secretary of the Board.

C. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries on the business for which the license is granted.

D. The privileges conferred by any license granted by the Board, except for temporary licenses, banquet and mixed beverage special events licenses, shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Board would be entitled to refuse to grant a license, by operation of law, voluntary surrender or order of the Board.

The Board may grant licenses for one year or for multiple years, not to exceed three years, based on the fees set forth in § 4.1-231.1. Qualification for a multiyear license shall be determined on the basis of criteria established by the Board. Fees for multiyear licenses shall not be refundable except as provided in § 4.1-232. The Board may provide a discount for two-year or three-year licenses, not to

exceed five percent of the applicable license fee, which extends for one fiscal year and shall not be altered or rescinded during such period.

The Board may permit a licensee who fails to pay:

1. The required license tax covering the continuation or reissuance of his license by midnight of the fifteenth day of the twelfth month or of the designated month of expiration, whichever is applicable, to pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made within 30 days following that date and is accompanied by a civil penalty of $25 or 10 percent of such tax, whichever is greater; and

2. The tax and civil penalty pursuant to subdivision 1 to pay the tax in lieu of posting and publishing notice and reapplying, provided payment of the tax is made within 45 days following the 30 days specified in subdivision 1 and is accompanied by a civil penalty of $100 or 25 percent of such tax, whichever is greater.

Such civil penalties collected by the Board shall be deposited in accordance with § 4.1-114.

E. Subsections A and C shall not apply to common carriers of passengers by train, boat, bus, or airplane.

Code 1950, § 4-34; 1972, c. 178; 1974, c. 460; 1980, c. 524; 1984, c. 180; 1993, cc. 424, 866; 1997, c. 37; 2007, cc. 870, 932; 2013, c. 642; 2015, c. 412; 2020, cc. 1113, 1114.

§ 4.1-203.1. Managers of licensed retail establishments.

The Board may suspend or revoke any license if it finds that the licensee has been convicted for a violation of 8 U.S.C. § 1324a (f), as amended, for actions of its managers or otherwise constituting a pattern or practice of employing unauthorized aliens on the licensed premises in the Commonwealth.

2012, c. 643.

§ 4.1-204. (Effective until July 1, 2024) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their qualifications for such licenses, the records shall

also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include (i) the types of alcoholic beverages sold, (ii) the total quantities of alcoholic beverages sold, (iii) the total price charged for such alcoholic beverages, (iv) the name and date of birth of the person to whom the alcoholic beverages are delivered, and (v) the address to which the alcoholic beverages are delivered. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection H of § 4.1-212.1.

Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a records request by the Authority; however, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

Code 1950, § 4-44; 1958, c. 192; 1968, c. 7, § 4-98.6; 1970, c. 784; 1988, c. 261, §§ 4-134, 4-135, 4-137; 1992, cc. 161, 220; 1993, c. 866; 2003, cc. 1029, 1030; 2007, cc. 99, 799; 2008, c. 513; 2018, c. 729; 2019, c. 706; 2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 281, 282; 2022, cc. 78, 79.

§ 4.1-204. (Effective July 1, 2024) Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate, and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses that require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, bus, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine and beer shippers. — Every wine and beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Deliveries. — Every licensee or permittee that is authorized to make deliveries pursuant to § 4.1-

212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such records shall include (i) the types of wine and beer sold, (ii) the total quantities of wine and beer sold, (iii) the total price charged for such wine and beer, (iv) the name and date of birth of the person to whom the wine and beer is delivered, and (v) the address to which the wine and beer is delivered. Licensees and permittees shall remit such records on a monthly basis for any month during which the licensee or permittee makes a delivery for which the licensee or permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection E of § 4.1-212.1.

Every licensee that is authorized to make deliveries pursuant to § 4.1-212.2 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of alcoholic beverages to persons in the Commonwealth. Such records shall include all information prescribed by Board regulations. Licensees shall remit such records within 24 hours of a records request by the Authority; however, the licensee may obtain Board approval, for good cause shown, to permit the licensee to provide records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine and beer shipper licensee and (ii) every licensee or permittee authorized to make deliveries wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine and beer shipper licensee, licensee or permittee authorized to make deliveries, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

Code 1950, § 4-44; 1958, c. 192; 1968, c. 7, § 4-98.6; 1970, c. 784; 1988, c. 261, §§ 4-134, 4-135, 4-137; 1992, cc. 161, 220; 1993, c. 866; 2003, cc. 1029, 1030; 2007, cc. 99, 799; 2008, c. 513; 2018, c. 729; 2019, c. 706; 2020, cc. 1113, 1114; 2022, cc. 78, 79.

§ 4.1-205. Local licenses.

A. In addition to the state licenses provided for in this chapter, the governing body of each county, city or town in the Commonwealth may provide by ordinance for the issuance of county, city or town licenses and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle or sell alcoholic beverages within such county, city or town, except for temporary licenses authorized by § 4.1-211. Subject to § 4.1-233.1, the governing body of a county, city or town may classify licenses and graduate the license taxes therefor in the manner it deems proper.

B. No county, city, or town shall issue a local license to any person who does not hold or secure simultaneously the proper state license. If any person holds any local license without at the same time

holding the proper state license, the local license, during the period when such person does not hold the proper state license, shall confer no privileges under the provisions of this subtitle.

Code 1950, § 4-38; 1952, c. 535; 1970, cc. 627, 734; 1976, c. 496; 1978, c. 190; 1982, cc. 66, 527; 1984, c. 180; 1990, c. 707; 1992, c. 350; 1993, c. 866; 2020, cc. 1113, 1114.

Article 2. Licenses Granted By Board; Limitations; Revocation and Suspension

§ 4.1-206. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-206.1. (Effective until July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this subtitle except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including

barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this subtitle except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to (i) manufacture wine and to sell and deliver or ship such wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth; (ii) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (iii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iv) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (v) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and no less than 20 percent of the wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to (i) manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship such wine, in accordance with Board regulations, in closed containers, to the Board, persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or persons outside the Commonwealth; (ii) acquire and receive deliveries and shipments of wine and sell and deliver or ship such wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (iii) operate a contract winemaking facility on the premises of the licensee in accordance with the provisions of this subtitle and Board regulations; (iv) enter into an agreement with a contract winemaking facility in accordance with the provisions of this subtitle and Board regulations; and (v) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this subtitle, a farm winery license shall be designated either as a Class I, Class II, Class III, or Class IV farm winery license in accordance with the limitations set forth in § 4.1-219.

Such licenses shall also authorize the licensee to sell wine at retail for on-premises consumption or in closed containers for off-premises consumption at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. The licensee may sell at these places of business wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the

provisions of this subtitle and Board regulations, and wine purchased from a wholesale wine licensee. In addition, the licensee may pre-mix wine and sell such wine at these places of business.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

2020, cc. 756, 1008, 1113, 1114; 2021, Sp. Sess. I, cc. 281, 282; 2023, c. 731.

§ 4.1-206.1. (Effective July 1, 2024) Manufacturer licenses.

The Board may grant the following manufacturer licenses:

1. Distiller's licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale and (ii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail at premises described in the brewery license (a) the brands of beer that the brewery owns for on-premises consumption, provided that not less than 20 percent of the volume of beer sold for on-premises consumption in any calendar year is manufactured on the licensed premises, and (b) beer in closed containers, which shall include growlers and other reusable containers, for off-premises consumption.

4. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including

barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

5. Winery licenses, which shall authorize the licensee to (i) manufacture wine and to sell and deliver or ship such wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth; (ii) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (iii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; (iv) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board; and (v) sell wine at retail at the place of business designated in the winery license for on-premises consumption or in closed containers for off-premises consumption, provided that any brand of wine not owned by the winery licensee is purchased from a wholesale wine licensee and no less than 20 percent of the wine sold for on-premises consumption is manufactured on the licensed premises.

6. Farm winery licenses, which shall authorize the licensee to (i) manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver, or ship such wine, in accordance with Board regulations, in closed containers, to the Board, persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, or persons outside the Commonwealth; (ii) acquire and receive deliveries and shipments of wine and sell and deliver or ship such wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (iii) operate a contract winemaking facility on the premises of the licensee in accordance with the provisions of this subtitle and Board regulations; (iv) enter into an agreement with a contract winemaking facility in accordance with the provisions of this subtitle and Board regulations; and (v) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class I, Class II, Class III, or Class IV farm winery license in accordance with the limitations set forth in § 4.1-219.

Such licenses shall also authorize the licensee to sell wine at retail for on-premises consumptions or in closed containers for off-premises consumption at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. The licensee may sell at these places of business wine manufactured by such licensee, wine manufactured by a contract winemaking facility with which the licensee has entered into an agreement pursuant to the

provisions of this subtitle and Board regulations, and wine purchased from a wholesale wine licensee. In addition, the licensee may pre-mix wine and sell such wine at these places of business.

7. Wine importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

8. Beer importer's licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship beer, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell such beer at wholesale for the purpose of resale and to persons outside the Commonwealth for resale outside the Commonwealth.

2020, cc. 756, 1008, 1113, 1114; 2021, Sp. Sess. I, cc. 281, 282; 2023, c. 731.

§ 4.1-206.2. (Effective until July 1, 2024) Wholesale licenses.

The Board may grant the following wholesale licenses:

1. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2. Wholesale wine licenses, including those granted pursuant to subdivision 3, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written

agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 2.

2020, cc. 1113, 1114.

§ 4.1-206.2. (Effective July 1, 2024) Wholesale licenses.

The Board may grant the following wholesale licenses:

1. Wholesale beer licenses, including those granted pursuant to subdivision 2, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

2. Restricted wholesale beer licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 3 of § 3.2-102 to provide wholesale beer distribution services to brewery and limited brewery licensees, provided that no more than 500 barrels of beer shall be distributed by the corporation to each licensee in any one calendar year. The corporation shall provide such distribution services in accordance with the terms of a written agreement with the brewery or limited brewery licensee, which shall comply with the provisions of this subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject to all laws and regulations governing, wholesale beer licenses granted under subdivision 1. The board of directors of such corporation shall develop procedures and guidelines related to the sale and delivery of beer by the corporation to holders of banquet and special events licenses when such events are located within the exclusive distribution territory of another wholesale beer licensee.

3. Wholesale wine licenses, including those granted pursuant to subdivision 4, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

4. Restricted wholesale wine licenses, which shall authorize a nonprofit, nonstock corporation created in accordance with subdivision B 2 of § 3.2-102 to provide wholesale wine distribution services to winery and farm winery licensees, provided that no more than 3,000 cases of wine produced by a winery or farm winery licensee shall be distributed by the corporation in any one year. The corporation shall provide such distribution services in accordance with the terms of a written agreement approved by the corporation between it and the winery or farm winery licensee, which shall comply with the provisions of this subtitle and Board regulations. The corporation shall receive all of the privileges of, and be subject to, all laws and regulations governing wholesale wine licenses granted under subdivision 3.

2020, cc. 1113, 1114; 2023, c. 597.

§ 4.1-206.3. (Effective until July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same

hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to (i) persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (a) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (b) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The

granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly

gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued

pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises

consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest

rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta,

Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the

licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of

the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the

privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times

alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

2020, cc. 15, 16, 32, 34, 400, 1009, 1113, 1114, 1179; 2020, Sp. Sess. I, c. 34; 2021, Sp. Sess. I, cc. 182, 281, 282, 390, 391; 2022, cc. 78, 79, 589, 590; 2023, cc. 408, 409.

§ 4.1-206.3. (Effective July 1, 2024) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at

least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to (i) persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth and (ii) financial

institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (a) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (b) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage motor sports facility licenses, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas, or similar facilities, for on-premises consumption. Such license may be granted to persons operating food concessions at an outdoor motor sports facility that (i) is located on 1,200 acres of rural property bordering the Dan River and has a track surface of 3.27 miles in length or (ii) hosts a NASCAR national touring race. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the

licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to the following:

a. Corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards;

b. Persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants;

c. Persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards;

d. Persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons;

e. Persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons;

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth; or

h. Persons operating food concessions at any corporate and performing arts facility located in Fairfax County, provided that the corporate and performing arts facility (i) is occupied under a bona fide long-term lease, management, or concession agreement, the original term of which was more than one year and (ii) has a total capacity in excess of 1,400 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way,

directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

12. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

13. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

14. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license

shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under Article 3 (§ 58.1-4108 et seq.) of Chapter 41 of Title 58.1.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the

licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any outdoor performing arts amphitheater, arena, or similar facility that (a) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach; (b) has seating or capacity for more than 3,500 persons and is located in the County of Albemarle, Alleghany, Augusta, Nelson, Pittsylvania, or Rockingham or the City of Charlottesville, Danville, or Roanoke; or (c) has capacity for more than 9,500 persons and is located in Henrico County.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and

"convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by

volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original

application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of

banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

2020, cc. 15, 16, 32, 34, 400, 1009, 1113, 1114, 1179; 2020, Sp. Sess. I, c. 34; 2021, Sp. Sess. I, cc. 182, 390, 391;2021, cc. 182, 182; 2022, cc. 78, 79, 589, 590; 2023, cc. 408, 409.

§ 4.1-207. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-207.1. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-208. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c.

82, effective January 1, 2022.

§ 4.1-209. Wine and beer license privileges; advertising; displays; tastings.

A. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to § 4.1-206.3 may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials (i) otherwise comply with the applicable regulations of the federal Bureau of Alcohol, Tobacco and Firearms and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity, do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery, and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

B. Persons granted a license to sell wine and beer for off-premises consumption that display such wine and beer outside a clearly discernible location reserved for alcoholic beverages shall (i) not place wine or beer in an area immediately adjacent to nonalcoholic beverages containing the same or similar brand name, logo, or packaging as an alcoholic beverage and (ii) equip any such display with signage that indicates the product is an alcoholic beverage, is clearly visible to consumers, and is of sufficient size to notify the consumer that the product contains alcohol. Nothing in this subsection shall prohibit the placement of nonalcoholic wine or beer in or near a display of alcoholic beverages that contain the same or similar brand name, logo, or packaging as the nonalcoholic wine or beer.

C. Persons granted retail on-and-off-premises wine and beer licenses pursuant to the following provisions may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption:

1. Subdivision A 1, 4, 5, 6, 7, 8, or 14 of § 4.1-206.3;

2. Subdivision B 1, 2, 4, 5, 6, 7, or 8 of § 4.1-206.3;

3. Subdivision C 1 or 2 of § 4.1-206.3;

4. Subdivision D 1 a, b, or d or 2 a of § 4.1-206.3; or

5. Subdivision F 4 or 5 of § 4.1-206.3.

Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. No single sample shall exceed four ounces of beer or two ounces of wine, and no more than 12 ounces of beer or five ounces of wine shall be given or sold to any person per day.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, cc. 190, 828, 866; 1994, c. 585; 1995, cc. 544, 570; 1996, cc. 443, 604; 1997, c. 489; 2001, c. 361; 2002, c. 204; 2003, cc. 329, 589, 1029, 1030; 2004, c.

487; 2005, cc. 652, 784; 2006, cc. 94, 153, 256, 826, 845; 2007, c. 813; 2008, cc. 179, 186, 192, 875; 2010, cc. 317, 561; 2011, c. 626; 2014, cc. 125, 612; 2015, c. 412; 2016, c. 654; 2017, cc. 76, 151, 152, 153, 154, 745; 2020, cc. 1113, 1114, 1179; 2023, cc. 213, 214.

§ 4.1-209.1. Direct shipment of wine and beer; shipper's license.

A. Holders of wine and beer shipper's licenses issued pursuant to subdivision F 1 of § 4.1-206.3 may sell and ship not more than two cases of wine per month nor more than two cases of beer per month to any person in Virginia to whom alcoholic beverages may be lawfully sold. All such sales and shipments shall be for personal consumption only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine. A case of beer shall mean any combination of packages containing not more than 288 ounces of beer. Any winery or farm winery located within or outside the Commonwealth may apply to the Board for issuance of a wine and beer shipper's license that shall authorize the shipment of brands of wine and farm wine identified in such application. Any brewery located within or outside the Commonwealth may apply to the Board for issuance of a wine and beer shipper's license that shall authorize the shipment of brands of beer identified in such application. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail in their state of domicile and who is not a winery, farm winery, or brewery may nevertheless apply for a wine and beer shipper's license if such person satisfies the requirements of this section. Any brewery, winery, or farm winery that applies for a shipper's license or authorizes any other person, other than a retail off-premises licensee, to apply for a license to ship such brewery's, winery's or farm winery's brands of wine or beer shall notify any wholesale licensees that have been authorized to distribute such brands that an application has been filed for a shipper's license. The notice shall be in writing and in a form prescribed by the Board. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section, including regulations that permit the holder of a shipper's license to amend the same by, among other things, adding or deleting any brands of wine, farm wine, or beer identified in such shipper's license.

B. Any applicant for a wine and beer shipper's license that does not own or have the right to control the distribution of the brands of wine, farm wine, or beer identified in such person's application may be issued a shipper's license for wine and beer, if the applicant has obtained and filed with its application for a shipper's license, and with any subsequent application for renewal thereof, the written consent of either (i) the winery, farm winery, or brewery whose brands of wine, farm wine, or beer are identified therein or (ii) any wholesale distributor authorized to distribute the wine or beer produced by the winery, farm winery or brewery. Any winery, farm winery, or brewery, or its wholesale distributor, that has provided written authorization to a shipper licensed pursuant to this section to sell and ship its brand or brands of wine, farm wine, or beer shall not be restricted by any provision of this section from withdrawing such authorization at any time. If such authorization is withdrawn, the winery, farm winery, or brewery shall promptly notify such shipper licensee and the Board in writing of its decision to withdraw from such shipper licensee the authority to sell and ship any of its brands, whereupon such shipper licensee shall promptly file with the Board an amendment to its license eliminating any such withdrawn brand or brands from the shipper's license.

C. The direct shipment of beer and wine by holders of licenses issued pursuant to subdivision F 1 of § 4.1-206.3 shall be by approved common carrier only. The Board shall develop regulations pursuant to which common carriers may apply for approval to provide common carriage of wine or beer, shipped by holders of licenses issued pursuant to subdivision F 1 of § 4.1-206.3. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of

age; (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board; and (iii) the Board-approved common carrier to submit to the Board such information as the Board may prescribe. The Board-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of each package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the shipper licensee shall be liable only for their independent acts.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each shipment of wine or beer by a wine and beer shipper licensee shall constitute a sale in Virginia. The licensee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation.

E. Notwithstanding the provisions of § 4.1-203, the holder of a wine and beer shipper license may solicit and receive applications for subscription to a wine-of-the-month or beer-of-the-month club at in-state or out-of-state locations for which a license for on-premises consumption has been issued, other than the place where the licensee carries on the business for which the license is granted. For the purposes of this subsection, "wine-of-the-month club" or "beer-of-the-month club" shall mean an agreement between an in-state or out-of-state holder of a wine and beer shipper license and a consumer in Virginia to whom alcoholic beverages may be lawfully sold that the shipper will sell and ship to the consumer and the consumer will purchase a lawful amount of wine or beer each month for an agreed term of months.

F. Notwithstanding the provisions of § 4.1-203, a wine and beer shipper licensee may ship wine or beer as authorized by this section through the use of the services of an approved fulfillment warehouse. For the purposes of this section, a "fulfillment warehouse" means a business operating a warehouse and providing storage, packaging, and shipping services to wineries or breweries. The Board shall develop regulations pursuant to which fulfillment warehouses may apply for approval to provide storage, packaging, and shipping services to holders of licenses issued pursuant to this section. Such regulations shall include provisions that require (i) the fulfillment warehouse to demonstrate that it is appropriately licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved fulfillment warehouse to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the fulfillment warehouse and each wine and beer shipper licensed under subdivision F 1 of § 4.1-206.3 to whom services are provided to enter into a contract designating the fulfillment warehouse as the agent of the shipper for purposes of complying with the provisions of this section.

G. Notwithstanding the provisions of § 4.1-203, a wine and beer shipper licensee may sell wine or beer as authorized by this section through the use of the services of an approved marketing portal. For the purposes of this section, a "marketing portal" means a business organized as an agricultural cooperative association under the laws of a state, soliciting and receiving orders for wine or beer and accepting and processing payment of such orders as the agent of a licensed wine and beer shipper. The Board shall develop regulations pursuant to which marketing portals may apply for approval to provide marketing services to holders of licenses issued pursuant to subdivision F 1 of § 4.1-206.3. Such regulations shall include provisions that require (i) the marketing portal to demonstrate that it is

appropriately organized as an agricultural cooperative association and licensed for the services to be provided by the state in which its place of business is located, (ii) the Board-approved marketing portal to maintain such records and to submit to the Board such information as the Board may prescribe, and (iii) the marketing portal and each wine and beer shipper licensed under this section to whom services are provided to enter into a contract designating the marketing portal as the agent of the shipper for purposes of complying with the provisions of this section.

2007, cc. 99, 799; 2009, c. 292; 2010, cc. 317, 561; 2015, cc. 38, 730; 2020, cc. 1113, 1114.

§ 4.1-210. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-211. Temporary licenses.

Notwithstanding subsection D of § 4.1-203, the Board may grant a temporary license to any of the licensed retail operations authorized by § 4.1-206.3. A temporary license may be granted only after an application has been filed in accordance with the provisions of § 4.1-230 and in cases where the sole objection to granting a license is that the establishment will not be qualified in terms of the sale of food. If a temporary license is not granted, the applicant is entitled to a hearing on the issue of qualifications. The decision to refuse to grant a temporary license shall not be subject to a hearing.

If a temporary license is granted, the Board shall conduct an audit of the business after a reasonable period of operation not to exceed 180 days. If the audit indicates that the business is qualified, the license applied for may be granted. If the audit indicates that the business is not qualified, the applicant is entitled to a hearing. No further temporary license shall be granted to the applicant or to any other person at that location for a period of one year from expiration and, once the application becomes the subject of a hearing, no temporary license may be granted.

A temporary license may be revoked summarily by the Board for any cause set forth in § 4.1-225 without complying with subsection A of § 4.1-227. Revocation of a temporary license shall be effective upon service of the order of revocation upon the licensee or upon the expiration of three business days after the order of the revocation has been mailed to the licensee at either his residence or the address given for the business in the license application. No further notice shall be required.

Code 1950, § 4-34; 1972, c. 178; 1974, c. 460; 1980, c. 524; 1984, c. 180; 1993, c. 866; 2020, cc. 1113, 1114.

§ 4.1-212. Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic

beverages.

3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-311.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this subtitle or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this subtitle and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this subtitle or any Board regulation committed by, or any errors or omissions of, the permittee.

16. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

17. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale

licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

Code 1950, §§ 4-26, 4-59, 4-61.2, 4-72, 4-77, 4-86; 1950, p. 879; 1954, cc. 21, 351; 1962, c. 200, § 4-84.1; 1968, c. 7, § 4-98.16; 1972, cc. 138, 717; 1974, c. 460, § 4-72.1; 1975, c. 480; 1976, c. 696; 1978, c. 436; 1984, c. 53; 1986, c. 190; 1988, c. 786; 1990, cc. 442, 773; 1993, cc. 221, 866; 1994, cc. 825, 826; 1997, c. 801; 2003, c. 564; 2006, c. 826; 2008, c. 453; 2012, c. 155; 2014, c. 617; 2017, c. 675; 2020, cc. 386, 816, 1113, 1114; 2022, c. 201.

§ 4.1-212.1. (Effective until July 1, 2024) Delivery of wine and beer; kegs; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal off-premises consumption.

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal off-premises consumption.

D. Any person licensed to sell mixed beverages at retail for off-premises consumption in the Commonwealth may deliver any mixed beverages it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

E. Any distiller that has been appointed as an agent of the Board pursuant to subsection D of § 4.1-119 may deliver to consumers within the Commonwealth for personal consumption any alcoholic beverages the distiller is authorized to sell through organized tasting events in accordance with subsection G of § 4.1-119 and Board regulations. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered mixed beverages in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

F. All deliveries made pursuant to this section shall be to consumers within the Commonwealth for personal consumption only and not for resale. Such deliveries shall be performed by either (i) the owner or any officer, director, shareholder, or employee of the licensee or permittee or (ii) a third-

party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 committed during transport through completion of the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual may take possession of the alcoholic beverages during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. Except as otherwise provided in this subtitle, alcoholic beverages sold for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern whether the container has been opened or tampered with subsequent to its original closure; (b) display the name of the licensee from which the alcoholic beverages were purchased; (c) be clearly marked with the phrase "contains alcoholic beverages"; (d) in the case of wine, beer, or, if purchased from a mixed beverage restaurant or limited mixed beverage restaurant licensee, mixed beverages, have a maximum volume of 16 ounces per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by bicycle, in a compartment behind the bicyclist.

The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (A) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (B) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

G. In addition to other applicable requirements set forth in this section, the following provisions shall apply to the sale of mixed beverages for off-premises consumption and the delivery of mixed beverages pursuant to this section:

1. No distiller shall sell for off-premises consumption or deliver more than two mixed beverages at any one time, and no mixed beverage restaurant or limited mixed beverage restaurant licensee may sell for off-premises consumption or deliver more than four mixed beverages at any one time;

2. All mixed beverages sold for off-premises consumption or delivered by a mixed beverage restaurant or limited mixed beverage restaurant licensee shall contain at least one mixer; and

3. Mixed beverage restaurant and limited mixed beverage restaurant licensees shall serve at least one meal with every two mixed beverages sold for off-premises consumption or delivered.

The Board may summarily revoke a licensee's privileges to sell or deliver mixed beverages for off-premises consumption for noncompliance with the provisions of this section or § 4.1-225 or 4.1-325. Any summary revocation by the Board pursuant to this paragraph (i) shall not be subject to the provisions of § 4.1-227, (ii) shall not be subject to appeal, and (iii) shall become effective upon personal service of the notice of summary revocation to the licensee or upon the fourth business day after such notice is mailed to the licensee's residence or the address listed for the licensed premises on the initial license application.

H. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each

delivery of wine, beer, or mixed beverages by a licensee or permittee shall constitute a sale in Virginia. The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

I. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be affixed to kegs, and displays a registration number and such other information as may be prescribed by the Board.

2007, cc. 99, 799; 2015, cc. 38, 730; 2019, c. 706; 2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 281, 282; 2022, cc. 78, 79.

§ 4.1-212.1. (Effective July 1, 2024) Delivery of wine and beer; kegs; regulations of Board.

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may deliver the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal off-premises consumption.

B. Any person licensed to sell wine and beer at retail for off-premises consumption in the Commonwealth, and who is not a brewery, winery, or farm winery, may deliver the brands of beer, wine, and farm wine it is authorized to sell in closed containers to consumers within the Commonwealth for personal off-premises consumption. Notwithstanding any provision of law to the contrary, such deliveries may be made to (i) a person's vehicle if located in a designated parking area of the licensee's premises where such person has electronically ordered beer, wine, or farm wine in advance of the delivery or (ii) such other locations as may be permitted by Board regulation.

C. Any person located outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in its state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal off-premises consumption.

D. All such deliveries shall be to consumers within the Commonwealth for personal consumption only and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by either (i) the owner or any officer, director, shareholder, or employee of the licensee or permittee or (ii) a third-party delivery licensee pursuant to § 4.1-212.2. The licensee performing the delivery shall be liable for any administrative violations of this section or § 4.1-304 committed during transport through completion of the delivery. Alcoholic beverages shall not be delivered after 11:00 p.m. or before 6:00 a.m. Only one individual may take possession of the beer, wine, or farm wine during the course of the delivery. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the licensee or permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Authority in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. Except as otherwise provided in this

subtitle, wine or beer sold for off-premises consumption or delivered pursuant to this section that are not in the manufacturer's original sealed container shall (a) be enclosed in a container that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern whether the container has been opened or tampered with subsequent to its original closure; (b) display the name of the licensee from which the wine or beer was purchased; (c) be clearly marked with the phrase "contains alcoholic beverages"; (d) have a maximum volume of 16 ounces per beverage; and (e) during delivery, be stored (1) in the trunk of the vehicle, (2) in an area that is rear of the driver's seat, (3) in a locked container or compartment, or (4) in the case of delivery by bicycle, in a compartment behind the bicyclist.

The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (A) the recipient to demonstrate, upon delivery, that he is at least 21 years of age and (B) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

E. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer by a licensee or permittee shall constitute a sale in Virginia. The licensee or permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, if such taxes have not already been paid.

F. Any manufacturer or retailer who is licensed to sell wine, beer, or both for off-premises consumption may sell such wine or beer in kegs, subject to any limitations imposed by Board regulation. The Board may impose a fee for keg registration seals. For purposes of this subsection, "keg registration seal" means any document, stamp, declaration, seal, decal, sticker, or device that is approved by the Board, designed to be affixed to kegs, and displays a registration number and such other information as may be prescribed by the Board.

2007, cc. 99, 799; 2015, cc. 38, 730; 2019, c. 706; 2020, cc. 1113, 1114; 2022, cc. 78, 79.

§ 4.1-212.2. Third-party deliveries; limitations; penalties.

A. For the purposes of this section, "delivery personnel" means any employee, agent, or independent contractor of the third-party delivery licensee that engages in direct-to-consumer alcoholic beverage delivery on behalf of the third-party delivery licensee.

B. A third-party delivery license shall authorize the licensee to deliver alcoholic beverages to a consumer pursuant to an order for such alcoholic beverages placed with a licensee vested with delivery privileges. Except as otherwise permitted under § 4.1-212.1, no person shall provide alcoholic beverage delivery services in the Commonwealth unless such person holds a third-party delivery license and is registered with the State Corporation Commission. All deliveries of alcoholic beverages by a third-party delivery licensee shall comply with the following: (i) alcoholic beverages shall be delivered only to persons who are 21 years of age or older and have provided valid identification that provides bona fide evidence of legal age, as prescribed in § 4.1-304; (ii) the third-party delivery licensee shall verify at the time of delivery that the recipient is 21 years of age or older, ensure that the recipient's identification bears a photograph that reasonably appears to match the appearance of the recipient, and record the recipient's name and date of birth and the address to which the alcoholic beverages were delivered; (iii) alcoholic beverages shall not be delivered to any person whom the third-party delivery licensee knows or has reason to believe is intoxicated; (iv) except for deliveries

made on behalf of the Authority, alcoholic beverages shall be delivered only for personal use and not for resale; (v) alcoholic beverages shall not be delivered to a correctional facility, a reformatory, a locker mailbox, a package shipping or storage facility, a retail licensee, or undergraduate housing at an institution of higher education; (vi) any alcoholic beverage that cannot be lawfully delivered shall be promptly returned to the licensed establishment at which the alcoholic beverage was purchased; (vii) only alcoholic beverages obtained directly from the licensed establishment with which the order was placed may be delivered; and (viii) the provisions of § 4.1-212.1 and any other requirements imposed on the delivery of alcoholic beverages by this subtitle or Board regulation.

C. In addition to the application requirements set forth in § 4.1-230 and any regulations or requirements adopted pursuant thereto, third-party delivery licensees shall provide to the Board, at the time of application and annually thereafter or as otherwise required by the Board, written certification that the third-party delivery licensee is in compliance with all applicable requirements set forth in Article 2 (§ 46.2-2141 et seq.) of Chapter 21 of Title 46.2. Third-party delivery licensees shall also provide to the Board, upon request, a copy of any contracts entered into by the licensee with any person offering alcoholic beverages for delivery.

D. Third-party delivery licensees shall provide to the Board, at the time of application and annually thereafter or as otherwise required by the Board, written certification that all delivery personnel (i) prior to delivering alcoholic beverages and annually thereafter, have completed and passed with a score of no less than 80 percent a Board-approved public safety course; (ii) are 21 years of age or older; (iii) have a valid driver's license, vehicle inspection, and vehicle registration; (iv) within the last seven years, have not been convicted of any of the following offenses under Virginia law or a substantially similar ordinance or law in any other jurisdiction: driving under the influence in violation of § 18.2-266 or 46.2-341.24 or a violation of § 4.1-304, 18.2-36.1, 18.2-51.4, 18.2-95, 18.2-357.1, or 46.2-894; (v) within the last three years, have not been convicted of more than three vehicle moving violations; and (vi) are not required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or listed on the U.S. Department of Justice's National Sex Offender Public Website.

E. Any person who violates the provisions of this section shall be required to pay (i) $2,500 for a first violation and (ii) $5,000 for any second or subsequent violation. The penalties provided under this subsection may be imposed in addition to or without imposing any other penalties or actions provided by law.

F. Notwithstanding subsection B, a third-party delivery licensee may deliver alcoholic beverages to a retail licensee if such alcoholic beverages are being delivered on behalf of the Authority.

2022, cc. 78, 79.

§ 4.1-213. Manufacture and sale of cider.

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. Cider shall be treated as wine for all purposes of this subtitle, except as otherwise provided in this subtitle or Board regulations.

I. This section shall not limit the privileges set forth in subdivision 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

Code 1950, § 4-27; 1978, c. 174; 1980, c. 324; 1992, c. 349; 1993, c. 866; 2011, cc. 265, 288; 2014, c. 787; 2015, c. 412; 2017, c. 160.

§ 4.1-214. Limitations on licenses; sale outside the Commonwealth.

No deliveries or shipments of alcoholic beverages to persons outside the Commonwealth for resale outside the Commonwealth authorized by this chapter shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

Code 1950, §§ 4-25, 4-27, 4-37; 1952, c. 535; 1956, cc. 520, 521; 1962, c. 532; 1964, c. 210; 1970, cc. 545, 627, 676, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 696, 698, 702, 703; 1977, c. 439; 1978, cc. 174, 190, 579; 1979, cc. 258, 537; 1980, cc. 299, 324, 526, 528, § 4-25.1; 1981, cc. 24, 410, 412, 586, 600; 1982, cc. 66, 214; 1983, c. 608; 1984, cc. 180, 200, 559, 703; 1985, cc. 457, 559; 1986, cc. 101, 190, 318, 615; 1987, cc. 252, 365; 1988, c. 893; 1989, c. 42; 1990, cc. 300, 390, 707, 810; 1991, cc. 468, 628; 1992, cc. 161, 215, 349, 350, 820; 1993, c. 866; 2017, c. 160.

§ 4.1-215. Limitation on manufacturers, bottlers, and wholesalers; exemptions.

A. 1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler, or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler, or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler, or wholesaler of alcoholic beverages; or (v) manufacturer, bottler, or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler, or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler, or wholesaler and such retailer are under common control, by stock ownership or otherwise.

2. Notwithstanding any other provision of this subtitle, a manufacturer of wine or malt beverages, or two or more of such manufacturers together, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-206.3 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine or malt beverage products. Such manufacturer shall be limited to eight banquet licenses, whether or not jointly obtained, for such events per year without regard to the number of wineries or breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.

3. Notwithstanding any other provision of this subtitle, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision D 1 b of § 4.1-206.3 upon application to the Board, provided that such event is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than eight banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to sell or give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (a) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (b) no more than three ounces of spirits may be offered to any patron per day. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars, or boats;

2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;

3. Farm winery licensees engaging in conduct authorized by subdivision 6 of § 4.1-206.1;

4. Manufacturers, bottlers, or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail

license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, or wholesalers;

5. Wineries, farm wineries, or breweries engaging in conduct authorized by subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1; or

6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

Code 1950, § 4-32; 1978, c. 108; 1982, c. 66; 1984, c. 68, § 4-32.1; 1993, c. 866; 1995, cc. 456, 630; 2003, cc. 1029, 1030; 2005, c. 784; 2007, cc. 99, 799; 2013, cc. 266, 604; 2015, c. 604; 2016, cc. 132, 141; 2017, c. 159; 2018, c. 734; 2020, cc. 1113, 1114.

§ 4.1-216. Further limitations on manufacturers, bottlers, importers, brokers or wholesalers; ownership interests prohibited; exceptions; prohibited trade practices.

A. As used in this section:

"Broker" means any person, other than a manufacturer or a licensed beer or wine importer, who regularly engages in the business of bringing together sellers and purchasers of alcoholic beverages for resale and arranges for or consummates such transactions with persons in the Commonwealth to whom such alcoholic beverages may lawfully be sold and shipped into the Commonwealth pursuant to the provisions of this subtitle.

"Manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages" includes any officers or directors of any such manufacturer, bottler, importer, broker or wholesaler.

B. Except as provided in this subtitle, no manufacturer, importer, bottler, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall acquire or hold any financial interest, direct or indirect, (i) in the business for which any retail license is issued or (ii) in the premises where the business of a retail licensee is conducted.

1. Subdivision B (ii) shall not apply so long as such manufacturer, bottler, importer, broker or wholesaler does not sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to such retail licensee and such retailer is not required by agreement or otherwise to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers, importers, brokers or wholesalers.

2. Service as a member of the board of directors of a corporation licensed as a retailer, the shares of stock of which are sold to the general public on any national or local stock exchange, shall not be deemed to be a financial interest, direct or indirect, in the business or the premises of the retail licensee.

3. A brewery, winery or subsidiary or affiliate thereof, hereinafter collectively referred to as a financing corporation, may participate in financing the business of a wholesale licensee in the Commonwealth by providing debt or equity capital or both but only if done in accordance with the provisions of this subsection.

a. In order to assist a proposed new owner of an existing wholesale licensee, a financing corporation may provide debt or equity capital, or both, if prior approval of the Board has been obtained pursuant to subdivision 3 b of subsection B. A financing corporation which proposes to provide equity capital shall cause the proposed new owner to form a Virginia limited partnership in which the new owner is the general partner and the financing corporation is a limited partner. If the general partner defaults on any financial obligation to the limited partner, which default has been specifically defined in the partnership agreement, or, if the new owner defaults on its obligation to pay principal and interest when due to the financing corporation as specifically defined in the loan documents, then, and only then, shall such financing corporation be allowed to take title to the business of the wholesale licensee. Notwithstanding any other law to the contrary and provided written notice has been given to the Board within two business days after taking title, the wholesale licensee may be managed and operated by such financing corporation pursuant to the existing wholesale license for a period of time not to exceed 180 days as if the license had been issued in the name of the financing corporation. On or before the expiration of such 180-day period, the financing corporation shall cause ownership of the wholesale licensee's business to be transferred to a new owner. Otherwise, on the 181st day, the license shall be deemed terminated. The financing corporation may not participate in financing the transfer of ownership to the new owner or to any other subsequent owner for a period of twenty years following the effective date of the original financing transaction; except where a transfer takes place before the expiration of the eighth full year following the effective date of the original financing transaction in which case the financing corporation may finance such transfer as long as the new owner is required to return such debt or equity capital within the originally prescribed eight-year period. The financing corporation may exercise its right to take title to, manage and operate the business of, the wholesale licensee only once during such eight-year period.

b. In any case in which a financing corporation proposes to provide debt or equity capital in order to assist in a change of ownership of an existing wholesale licensee, the parties to the transaction shall first submit an application for a wholesale license in the name of the proposed new owner to the Board.

The Board shall be provided with all documents that pertain to the transaction at the time of the license application and shall ensure that the application complies with all requirements of law pertaining to the issuance of wholesale licenses except that if the financing corporation proposes to provide equity capital and thereby take a limited partnership interest in the applicant entity, the financing corporation shall not be required to comply with any Virginia residency requirement applicable to the issuance of wholesale licenses. In addition to the foregoing, the applicant entity shall certify to the Board and provide supporting documentation that the following requirements are met prior to issuance of the wholesale license: (i) the terms and conditions of any debt financing which the financing corporation proposes to provide are substantially the same as those available in

the financial markets to other wholesale licensees who will be in competition with the applicant, (ii) the terms of any proposed equity financing transaction are such that future profits of the applicant's business shall be distributed annually to the financing corporation in direct proportion to its percentage of ownership interest received in return for its investment of equity capital, (iii) if the financing corporation proposes to provide equity capital, it shall hold an ownership interest in the applicant entity through a limited partnership interest and no other arrangement and (iv) the applicant entity shall be contractually obligated to return such debt or equity capital to the financing corporation not later than the end of the eighth full year following the effective date of the transaction thereby terminating any ownership interest or right thereto of the financing corporation.

Once the Board has issued a wholesale license pursuant to an application filed in accordance with this subdivision 3 b, any subsequent change in the partnership agreement or the financing documents shall be subject to the prior approval of the Board. In accordance with the previous paragraph, the Board may require the licensee to resubmit certifications and documentation.

c. If a financing corporation wishes to provide debt financing, including inventory financing, but not equity financing, to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee, it may do so without regard to the provisions of subdivisions 3 a and 3 b of subsection B under the following circumstances and subject to the following conditions: (i) in order to secure such debt financing, a wholesale licensee or a proposed new owner thereof may grant a security interest in any of its assets, including inventory, other than the wholesale license itself or corporate stock of the wholesale licensee; in the event of default, the financing corporation may take title to any assets pledged to secure such debt but may not take title to the business of the wholesale licensee and may not manage or operate such business; (ii) debt capital may be supplied by such financing corporation to an existing wholesale licensee or a proposed new owner of an existing wholesale licensee so long as debt capital is provided on terms and conditions which are substantially the same as those available in the financial markets to other wholesale licensees in competition with the wholesale licensee which is being so financed; and (iii) the licensee or proposed new owner shall certify to the Board and provide supporting documentation that the requirements of (i) and (ii) of this subdivision 3 c have been met.

Nothing in this section shall eliminate, affect or in any way modify the requirements of law pertaining to issuance and retention of a wholesale license as they may apply to existing wholesale licensees or new owners thereof which have received debt financing prior to the enactment of this subdivision 3 c.

4. Except for holders of retail licenses issued pursuant to subdivision A 5 of § 4.1-201, brewery licensees may sell beer to retail licensees for resale only under the following conditions: If such brewery or an affiliate or subsidiary thereof has taken title to the business of a wholesale licensee pursuant to the provisions of subdivision 3 a of subsection B, direct sale to retail licensees may be made during the 180-day period of operation allowed under that subdivision. Moreover, the holder of a brewery license may make sales of alcoholic beverages directly to retail licensees for a period not to exceed thirty days in the event that such retail licensees are normally serviced by a wholesale licensee representing that brewery which has been forced to suspend wholesale operations as a result of a natural disaster or other act of God or which has been terminated by the brewery for fraud, loss of license or assignment of assets for the benefit of creditors not in the ordinary course of business.

5. Notwithstanding any provision of this section, including but not limited to those provisions whereby certain ownership or lease arrangements may be permissible, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages shall make an agreement, or attempt to make an

agreement, with a retail licensee pursuant to which any products sold by a competitor are excluded in whole or in part from the premises on which the retail licensee's business is conducted.

6. Nothing in this section shall prohibit a winery, brewery, or distillery licensee from paying a royalty to a historical preservation entity pursuant to a bona fide intellectual property agreement that (i) authorizes the winery, brewery, or distillery licensee to manufacture wine, beer, or spirits based on authentic historical recipes and identified with brand names owned and trademarked by the historical preservation entity; (ii) provides for royalties to be paid based solely on the volume of wine, beer, or spirits manufactured using such recipes and trademarks, rather than on the sales revenues generated from such wine, beer, or spirits; and (iii) has been approved by the Board.

For purposes of this subdivision, "historical preservation entity" means an entity (a) that is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code; (b) whose declared purposes include the preservation, restoration, and protection of a historic community in the Commonwealth that is the site of at least 50 historically significant houses, shops, and public buildings dating to the eighteenth century; and (c) that owns not more than 12 retail establishments in the Commonwealth for which retail licenses have been issued by the Board.

C. Subject to such exceptions as may be provided by statute or Board regulations, no manufacturer, bottler, importer, broker or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not, shall sell, rent, lend, buy for or give to any retail licensee, or to the owner of the premises in which the business of any retail licensee is conducted, any (i) money, equipment, furniture, fixtures, property, services or anything of value with which the business of such retail licensee is or may be conducted, or for any other purpose; (ii) advertising materials; and (iii) business entertainment, provided that no transaction permitted under this section or by Board regulation shall be used to require the retail licensee to partially or totally exclude from sale at its establishment alcoholic beverages of other manufacturers or wholesalers.

The provisions of this subsection shall apply to manufacturers, bottlers, importers, brokers and wholesalers selling alcoholic beverages to any governmental instrumentality or employee thereof selling alcoholic beverages at retail within the exterior limits of the Commonwealth, including all territory within these limits owned by or ceded to the United States of America.

The provisions of this subsection shall not apply to any commercial lifestyle center licensee.

1989, c. 528, § 4-79.1; 1992, c. 349; 1993, c. 866; 2015, c. 421; 2020, cc. 1113, 1114.

§ 4.1-216.1. Point-of-sale advertising materials authorized under certain conditions; civil penalties.

A. As used in this section:

"Alcoholic beverage advertising material" or "advertising material" means any item, other than an illuminated device, which contains one or more references to a brand of alcoholic beverage and which is used to promote the sale of alcoholic beverages within the interior of a licensed retail establishment and which otherwise complies with Board regulations.

"Authorized vendor" or "vendor" means any person, other than a wholesale wine or beer licensee, that a manufacturer has authorized to engage in a business consisting in whole or in part of the sale and

distribution of any articles of tangible personal property bearing any of the manufacturer's alcoholic beverage trademarks.

"Manufacturer" means any brewery, winery, distillery, bottler, broker, importer and any person that a brewery, winery, or distiller has authorized to sell or arrange for the sale of its products to wholesale wine and beer licensees in Virginia or, in the case of spirits, to the Board.

B. Notwithstanding the provisions of § 4.1-215 or 4.1-216 and Board regulations adopted thereunder, a manufacturer or its authorized vendor and a wholesale wine and beer licensee may lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of $40 or less per item.

C. Alcoholic beverage advertising materials, other than those authorized by subsection B to be given to a retailer, may be displayed by a retail licensee in the interior of its licensed establishment provided:

1. The wholesale value of the advertising material does not exceed $250 per item, and

2. The advertising material is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

A retail licensee shall retain for at least two years a record of its procurement of, including any payments for, such advertising materials along with an invoice or sales ticket containing a description of the item so purchased or otherwise procured.

D. Except as otherwise provided in this subtitle, a retail licensee shall not display in the interior of its licensed establishment any alcoholic beverage advertising materials, other than those that may be lawfully obtained and displayed in accordance with this section or Board regulation.

E. Nothing in this section shall be construed to prohibit any advertising materials permitted under Board regulations in effect on January 1, 2007.

2007, c. 494.

§ 4.1-217. Limitation on brewery licenses.

No beer reconstituted from beer concentrate, other than reconstituted beer originally manufactured, concentrated and reconstituted at the same plant located in the Commonwealth, shall be sold by any brewery licensee to persons licensed to sell beer at retail for purposes of resale.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, cc. 190, 828, 866.

§ 4.1-218. Limitation on wine and beer importers.

Wine importer licensees and beer importer licensees shall not sell and deliver or ship any brand of beer or wine to wholesale licensees for the purpose of resale until such importer has also complied

with the provisions of this section and Board regulations for each such brand.

Any licensed importer, if not also the owner of the brand to be imported into the Commonwealth, shall provide to the Board written authorization from the brand owner entitling the importer to (i) sell and deliver or ship such brand into the Commonwealth and (ii) establish written agreements of a definite duration and within the meaning of the Wine Franchise Act (§ 4.1-400 et seq.) and the Beer Franchise Act (§ 4.1-500 et seq.), on behalf of the brand owner, as its authorized representative, with each wholesale licensee to whom the importer sells any brand of beer or wine owned by the brand owner. In addition, each such licensed importer shall file and maintain with the Board a current list of all wholesale licensees authorized by such importer, as the authorized representative of the brand owner, to distribute such brand within the Commonwealth.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866.

§ 4.1-219. Limitations on Class I, II, III, and IV farm wineries.

A. For Class I farm winery licensees, all of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced on the licensed premises. Class I farm winery licensees shall have on the licensed premises a growing area no smaller than one and one-half acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. Class I farm winery licensees shall ferment on the licensed premises no less than 2,250 liters of wine per year, and all of the wine sold by such licensee shall be fermented on the licensed premises.

B. For Class II farm winery licensees, at least 51 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced on property in the Commonwealth that is owned or leased by the licensee and no more than 25 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced outside the Commonwealth. Class II farm winery licensees shall have on the licensed premises a growing area no smaller than three acres that produces fruits or agricultural products used to manufacture the wine of such farm winery.

C. For Class III farm winery licensees, 75 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced in the Commonwealth. Class III farm winery licensees shall ferment on the licensed premises no less than 4,500 liters of wine per year, and no less than 75 percent of the wine sold by such licensee shall be fermented on the licensed premises.

D. For Class IV farm winery licensees, 75 percent of the fruits or agricultural products used by the licensee to manufacture wine shall be grown or produced in the Commonwealth. Class IV farm winery licensees shall have on the licensed premises a growing area no smaller than 10 acres that produces fruits or agricultural products used to manufacture the wine of such farm winery. No Class IV farm winery license shall be issued to any person that has not operated under an existing farm winery license for at least seven years.

E. A farm winery licensee may trade with other farm winery licensees fruits or agricultural products grown or produced on property in the Commonwealth that is owned or leased by such farm winery licensees. For the purposes of this section, fruit or agricultural products traded or exchanged between

farm winery licensees shall be considered grown or produced on the licensed premises of the receiving licensee for the purposes of meeting the fruit sourcing requirement in subsections A, B, C, and D, provided that verification is provided to the receiving licensee that the fruit or agricultural products traded or exchanged were grown or produced in the Commonwealth by the farm winery licensee engaging in such trade or exchange. Both licensees shall maintain complete and accurate records of the quantity and source of any fruit or agricultural products traded or exchanged. Such trades or exchanges shall be bona fide transactions based on the fair market value of the fruits or agricultural products traded or exchanged. For the purposes of this subsection, "agricultural products" means the raw materials used or intended to be used in the manufacture of wine or cider by farm winery licensees.

F. Notwithstanding the provisions of subsections A, B, C, and D, upon petition by the Department of Agriculture and Consumer Services, the Board may permit the use (i) of a greater quantity of out-of-state products if supplies grown or produced in the Commonwealth are insufficient for a farm winery licensee, whether Class I, Class II, Class III, or Class IV, to achieve the level of production that otherwise could be anticipated during a given license year or (ii) by a Class I, Class II, or Class IV farm winery of a lesser percentage of products grown or produced on the licensed premises or on property in the Commonwealth that is owned or leased by the licensee, as applicable, if unusually severe weather or disease conditions cause a significant reduction in the availability of fruit or other agricultural products grown or produced on such property to manufacture wine during a given license year.

G. As used in this section, the phrase "property in the Commonwealth that is owned or leased by the licensee" shall include, in the case of a cooperative licensed as a farm winery, any property in the Commonwealth that is owned or leased by a member of such cooperative.

Code 1950, § 4-2; 1952, c. 496; 1954, c. 682; 1962, c. 533; 1970, cc. 302, 309; 1974, cc. 460, 497; 1975, c. 408; 1976, cc. 64, 702; 1977, c. 280; 1980, c. 324, § 4-25.1; 1981, c. 410; 1984, cc. 200, 559; 1985, cc. 448, 457; 1986, c. 190; 1990, cc. 300, 390, 707, 810, 932; 1991, c. 426; 1993, c. 866; 2000, cc. 1037, 1052; 2003, c. 631; 2008, c. 194; 2016, c. 656; 2023, c. 731.

§ 4.1-220. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-221. (Effective until July 1, 2024) Limitation on mixed beverage licensees; exceptions.

A. Unless excepted by subsection B, all alcoholic beverages sold as mixed beverages shall be purchased from the Board.

B. Mixed beverage carrier licensees may obtain from other lawful sources alcoholic beverages to be sold as mixed beverages on trains, boats or airplanes of the licensees provided there is paid to the Board in lieu of the taxes otherwise directly imposed under this chapter and any markup otherwise charged by the Board, a tax of ten cents for each of the average number of drinks of mixed beverages determined by the Board as having been consumed within the geographical confines of the Commonwealth on such trains, boats or airplanes. Such tax shall be calculated on the basis of the

proportionate number of revenue passenger miles traveled within the Commonwealth by such a licensee in relation to the total quantity of all alcoholic beverages obtained either inside or outside the Commonwealth by the licensee for consumption on trains, boats or airplanes of the licensee. Such tax shall be paid to the Board on a quarterly basis.

C. The entire contents of a closed container of distilled spirits shall not be served to an individual for on-premises consumption or for off-premises consumption pursuant to § 4.1-212.1 except as may be provided by Board regulation.

1968, c. 7, § 4-98.11; 1972, c. 17; 1974, c. 460; 1984, c. 318; 1986, c. 374; 1993, c. 866; 2021, Sp. Sess. I, cc. 281, 282; 2022 cc. 78, 79.

§ 4.1-221. (Effective July 1, 2024) Limitation on mixed beverage licensees; exceptions.

A. Unless excepted by subsection B, all alcoholic beverages sold as mixed beverages shall be purchased from the Board.

B. Mixed beverage carrier licensees may obtain from other lawful sources alcoholic beverages to be sold as mixed beverages on trains, boats or airplanes of the licensees provided there is paid to the Board in lieu of the taxes otherwise directly imposed under this chapter and any markup otherwise charged by the Board, a tax of ten cents for each of the average number of drinks of mixed beverages determined by the Board as having been consumed within the geographical confines of the Commonwealth on such trains, boats or airplanes. Such tax shall be calculated on the basis of the proportionate number of revenue passenger miles traveled within the Commonwealth by such a licensee in relation to the total quantity of all alcoholic beverages obtained either inside or outside the Commonwealth by the licensee for consumption on trains, boats or airplanes of the licensee. Such tax shall be paid to the Board on a quarterly basis.

C. The entire contents of a closed container of distilled spirits shall not be served to an individual for on-premises consumption except as may be provided by Board regulation.

1968, c. 7, § 4-98.11; 1972, c. 17; 1974, c. 460; 1984, c. 318; 1986, c. 374; 1993, c. 866; 2022 cc. 78, 79.

§ 4.1-221.1. Limitation of tasting licenses.

Single samples of alcoholic beverages given or sold by a licensee shall not exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; and no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be offered to any person per day. Tasting licenses for mixed beverages shall be issued only for events to be held in localities that do not prohibit the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than 12 tasting licenses annually shall be issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1.

1996, cc. 584, 596; 2006, c. 826; 2019, cc. 37, 178; 2020, cc. 1113, 1114, 1177.

§ 4.1-222. Conditions under which Board may refuse to grant licenses.

The Board may refuse to grant any license if it has reasonable cause to believe that:

1. The applicant, or if the applicant is a partnership, any general partner thereof, or if the applicant is an association, any member thereof, or limited partner of 10 percent or more with voting rights, or if the applicant is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the applicant is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Is not 21 years of age or older;

b. Has been convicted in any court of a felony or any crime or offense involving moral turpitude under the laws of any state, or of the United States;

c. Has been convicted, within the five years immediately preceding the date of the application for such license, of a violation of any law applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

d. Is not a person of good moral character and repute;

e. Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;

f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business proposed to be licensed;

g. Has maintained a noisy, lewd, disorderly or unsanitary establishment;

h. Has demonstrated, either by his police record or by his record as a former licensee of the Board, a lack of respect for law and order;

i. Is unable to speak, understand, read and write the English language in a reasonably satisfactory manner;

j. Is a person to whom alcoholic beverages may not be sold under § 4.1-304;

k. Has the general reputation of drinking alcoholic beverages to excess or is addicted to the use of narcotics;

l. Has misrepresented a material fact in applying to the Board for a license;

m. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false and fraudulent;

n. Is violating or allowing the violation of any provision of this subtitle in his establishment at the time his application for a license is pending;

o. Is a police officer with police authority in the political subdivision within which the establishment designated in the application is located;

p. Is physically unable to carry on the business for which the application for a license is filed or has been adjudicated incapacitated; or

q. Is a member, agent or employee of the Board.

2. The place to be occupied by the applicant:

a. Does not conform to the requirements of the governing body of the county, city or town in which such place is located with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulation;

b. Is so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order;

c. Is so located with respect to any church; synagogue; hospital; public, private, or parochial school or an institution of higher education; public or private playground or other similar recreational facility; or any state, local, or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions;

d. Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area; or

e. Under a retail on-premises license is so constructed, arranged or illuminated that law-enforcement officers and special agents of the Board are prevented from ready access to and reasonable observation of any room or area within which alcoholic beverages are to be sold or consumed.

3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this subtitle; and (iii) objections, if any, which may have been filed by a local governing body or local residents.

4. There exists any law, ordinance, or regulation of the United States, the Commonwealth or any political subdivision thereof, which warrants refusal by the Board to grant any license.

5. The Board is not authorized under this chapter to grant such license.

Code 1950, § 4-31; 1954, c. 301; 1956, c. 523; 1972, c. 178; 1974, c. 267; 1976, cc. 67, 698; 1978, c. 446; 1980, c. 299; 1982, c. 66; 1984, c. 703; 1986, cc. 94, 615; 1989, c. 311; 1990, c. 727; 1992, c. 161; 1993, c. 866; 1997, c. 801; 2002, c. 420; 2007, c. 103; 2020, c. 534.

§ 4.1-223. (Effective until July 1, 2024) Conditions under which Board shall refuse to grant

licenses.

The Board shall refuse to grant any:

1. Wholesale beer or wine license to any person, unless such person has established or will establish a place or places of business within the Commonwealth at which will be received and from which will be distributed all alcoholic beverages sold by such person in the Commonwealth. However, in special circumstances, the Board, subject to any regulations it may adopt, may permit alcoholic beverages to be received into or distributed from places other than established places of business.

2. Wholesale beer license or wholesale wine license to any entity that is owned, in whole or in part, by any manufacturer of alcoholic beverages, any subsidiary or affiliate of such manufacturer, or any person under common control with such manufacturer. This subdivision, however, shall not apply to (i) any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or (ii) the nonprofit, nonstock corporation established pursuant to subdivision B 2 of § 3.2-102 in exercising any privileges granted under subdivision 3 of § 4.1-206.2.

As used in this subdivision, the term "manufacturer" includes any person (i) who brews, vinifies, or distills alcoholic beverages for sale or (ii) engaging in business as a contract brewer, winery, or distillery that owns alcoholic beverage product brand rights, but arranges the manufacture of such products by another person.

3. Mixed beverage license if the Board determines that in the licensed establishment there (i) is entertainment of a lewd, obscene or lustful nature including what is commonly called stripteasing, topless entertaining, and the like, or which has employees who are not clad both above and below the waist, or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic beverages.

4. Wholesale wine license until the applicant has filed with the Board a bond payable to the Commonwealth, in a sum not to exceed $10,000, upon a form approved by the Board, signed by the applicant or licensee and a surety company authorized to do business in the Commonwealth as surety, and conditioned upon such person's (i) securing wine only in a manner provided by law, (ii) remitting to the Board the proper tax thereon, (iii) keeping such records as may be required by law or Board regulations, and (iv) abiding by such other laws or Board regulations relative to the handling of wine by wholesale wine licensees. The Board may waive the requirement of both the surety and the bond in cases where the wholesaler has previously demonstrated his financial responsibility.

5. Mixed beverage license to any member, agent, or employee of the Board or to any corporation or other business entity in which such member, agent or employee is a stockholder or has any other economic interest.

Whenever any other elective or appointive official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interests applies for such a license, it shall state on the application the full economic interest of each such official in such corporation or other business entity.

6. License authorized by this chapter until the license tax required by § 4.1-231.1 is paid to the Board.

Code 1950, § 4-31; 1954, c. 301; 1956, c. 523; 1968, c. 7, §§ 4-98.9, 4-98.17; 1972, cc. 178, 525; 1974, cc. 267, 548; 1975, c. 413; 1976, cc. 67, 698; 1978, c. 446; 1980, c. 299; 1982, c. 66; 1984, c. 703; 1986, cc. 94, 615; 1989, c. 311; 1990, c. 727; 1992, c. 161; 1993, c. 866; 2000, c. 823; 2007, cc. 870, 932; 2012, cc. 803, 835; 2020, cc. 1113, 1114.

§ 4.1-223. (Effective July 1, 2024) Conditions under which Board shall refuse to grant licenses.

The Board shall refuse to grant any:

1. Wholesale beer or wine license to any person, unless such person has established or will establish a place or places of business within the Commonwealth at which will be received and from which will be distributed all alcoholic beverages sold by such person in the Commonwealth. However, in special circumstances, the Board, subject to any regulations it may adopt, may permit alcoholic beverages to be received into or distributed from places other than established places of business.

2. Wholesale wine license to any entity that is owned, in whole or in part, by any manufacturer of alcoholic beverages, any subsidiary or affiliate of such manufacturer, or any person under common control with such manufacturer. This subdivision, however, shall not apply to (i) any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or (ii) the nonprofit, nonstock corporation established pursuant to subdivision B 2 of § 3.2-102 in exercising any privileges granted under subdivision 4 of § 4.1-206.2.

3. Wholesale beer license to any (i) entity that is owned, in whole or in part, by any manufacturer of alcoholic beverages; (ii) subsidiary or affiliate of a manufacturer of alcoholic beverages; (iii) officer, director, or principal stockholder of a manufacturer of alcoholic beverages; (iv) spouse of an officer, director, or principal stockholder of a manufacturer of alcoholic beverages; or (v) person under common control with a manufacturer of alcoholic beverages. This subdivision, however, shall not apply to (a) any applicant for a wholesale beer or wine license filed pursuant to subdivision B 3 b of § 4.1-216 or (b) the nonprofit, nonstock corporation established pursuant to subdivision B 3 of § 3.2-102 in exercising any privileges granted under subdivision 2 of § 4.1-206.2.

As used in this subdivision, the term "manufacturer" includes any person (i) who brews, vinifies, or distills alcoholic beverages for sale or (ii) engaging in business as a contract brewer, winery, or distillery that owns alcoholic beverage product brand rights, but arranges the manufacture of such products by another person.

4. Mixed beverage license if the Board determines that in the licensed establishment there (i) is entertainment of a lewd, obscene or lustful nature including what is commonly called stripteasing, topless entertaining, and the like, or which has employees who are not clad both above and below the waist, or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic beverages.

5. Wholesale wine license until the applicant has filed with the Board a bond payable to the Commonwealth, in a sum not to exceed $10,000, upon a form approved by the Board, signed by the applicant or licensee and a surety company authorized to do business in the Commonwealth as surety, and conditioned upon such person's (i) securing wine only in a manner provided by law, (ii) remitting to the Board the proper tax thereon, (iii) keeping such records as may be required by law or Board regulations, and (iv) abiding by such other laws or Board regulations relative to the handling of wine

by wholesale wine licensees. The Board may waive the requirement of both the surety and the bond in cases where the wholesaler has previously demonstrated his financial responsibility.

6. Mixed beverage license to any member, agent, or employee of the Board or to any corporation or other business entity in which such member, agent or employee is a stockholder or has any other economic interest.

Whenever any other elective or appointive official of the Commonwealth or any political subdivision thereof applies for such a license or continuance thereof, he shall state on the application the official position he holds, and whenever a corporation or other business entity in which any such official is a stockholder or has any other economic interests applies for such a license, it shall state on the application the full economic interest of each such official in such corporation or other business entity.

7. License authorized by this chapter until the license tax required by § 4.1-231.1 is paid to the Board.

Code 1950, § 4-31; 1954, c. 301; 1956, c. 523; 1968, c. 7, §§ 4-98.9, 4-98.17; 1972, cc. 178, 525; 1974, cc. 267, 548; 1975, c. 413; 1976, cc. 67, 698; 1978, c. 446; 1980, c. 299; 1982, c. 66; 1984, c. 703; 1986, cc. 94, 615; 1989, c. 311; 1990, c. 727; 1992, c. 161; 1993, c. 866; 2000, c. 823; 2007, cc. 870, 932; 2012, cc. 803, 835; 2020, cc. 1113, 1114; 2023, c. 597.

§ 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

A. The action of the Board in granting or in refusing to grant any license shall be subject to review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

B. The Board may refuse a hearing on any application for the granting of any retail alcoholic beverage or mixed beverage license, including a banquet license, provided such:

1. License for the applicant has been refused or revoked within a period of twelve months;

2. License for any premises has been refused or revoked at that location within a period of twelve months;

3. Applicant, within a period of twelve months immediately preceding, has permitted a license granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such license, there was a pending and unadjudicated charge, either before the Board or in any court, against the licensee alleging a violation of this subtitle; or

4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same location within twelve months of the date of the issuance of the restricted license.

C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board, the Board may refuse a hearing on an application for a new license until after the date on

which the suspension period would have been executed had the license not have been permitted to expire.

Code 1950, § 4-31; 1954, c. 301; 1956, c. 523; 1972, c. 178; 1974, c. 267; 1976, cc. 67, 698; 1978, c. 446; 1980, c. 299; 1982, c. 66; 1984, c. 703; 1986, cc. 94, 615; 1989, c. 311; 1990, c. 727; 1992, c. 161; 1993, c. 866; 2000, c. 147.

§ 4.1-225. Grounds for which Board may suspend or revoke licenses; exception.

A. The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance, or regulation of the Commonwealth, of any county, city, or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use, or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule, or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook, or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture,

transportation, possession, use, or sale of alcoholic beverages;

i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this subtitle;

l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

m. Has allowed any obscene literature, pictures, or materials upon the licensed premises;

n. Has possessed any illegal gambling apparatus, machine, or device upon the licensed premises;

o. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business that facilitates the commission of any of the offenses set forth herein;

p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or

q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city, or town in which

such establishment is located, with respect to sanitation, health, construction, or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this subtitle or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers, or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this subtitle.

B. Notwithstanding the provisions of subdivision A 1 h, a licensee may employ a person who has been convicted of a felony or a crime involving moral turpitude if (i) except for violations of § 18.2-54.1 or 18.2-54.2, two years have elapsed following the conviction and the person has completed and been released from the term of any probation or parole, if applicable, or (ii) the licensee has obtained written approval for such employment from the Authority and, in instances in which the person has not completed or been released from the term of any probation or parole, the Authority has consulted with the person's probation and parole officer.

Code 1950, § 4-37; 1956, c. 521; 1970, cc. 545, 676; 1976, cc. 696, 698, 702; 1978, c. 579; 1979, c. 537; 1980, c. 299; 1981, cc. 24, 586, 600; 1982, c. 214; 1983, c. 608; 1984, cc. 180, 200, 703; 1985, c. 559; 1986, cc. 101, 318, 615; 1987, c. 252; 1991, c. 468; 1992, cc. 161, 820; 1993, c. 866; 1996, c. 404; 1997, c. 801; 2002, c. 352; 2003, c. 594; 2007, c. 103; 2008, cc. 185, 794; 2009, c. 486; 2011, cc. 384, 410; 2013, c. 661; 2014, cc. 233, 674, 719; 2017, cc. 698, 707; 2020, c. 122; 2023, c. 774.

§ 4.1-225.1. (Effective until July 1, 2024) Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-227 or 4.1-229, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily

injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to (i) temporary licenses granted under § 4.1-211 or temporary permits granted under § 4.1-212, either of which may be revoked summarily in accordance with § 4.1-211, or (ii) licenses granted pursuant to subdivision 7 or 8 of § 4.1-206.1 or subdivision 1 or 2 of § 4.1-206.2.

2016, c. 42; 2020, cc. 1113, 1114.

§ 4.1-225.1. (Effective July 1, 2024) Summary suspension in emergency circumstances; grounds; notice and hearing.

A. Notwithstanding any provisions to the contrary in Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act or § 4.1-227 or 4.1-229, the Board may summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises, and the Board finds that there exists a continuing threat to public safety and that summary suspension of the license or permit is justified to protect the health, safety, or welfare of the public.

B. Prior to issuing an order of suspension pursuant to this section, special agents of the Board shall conduct an initial investigation and submit all findings to the Secretary of the Board within 48 hours of any such act of violence. If the Board determines suspension is warranted, it shall immediately notify the licensee of its intention to temporarily suspend his license pending the outcome of a formal investigation. Such temporary suspension shall remain effective for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a restricted license pending the results of the formal investigation and proceedings for disciplinary review. If the Board determines that a restricted license is warranted, the Board shall have discretion to impose appropriate restrictions based on the facts presented.

C. Upon a determination to temporarily suspend a license, the Board shall immediately commence a formal investigation. The formal investigation shall be completed within 10 days of its commencement and the findings reported immediately to the Secretary of the Board. If, following the formal investigation, the Secretary of the Board determines that suspension of the license is warranted, a hearing shall be held within five days of the completion of the formal investigation. A decision shall be rendered within 10 days of conclusion of the hearing. If a decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10 days of the decision and heard by the Board within 20 days of the decision. The Board shall render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

D. Service of any order of suspension issued pursuant to this section shall be made by a special agent of the Board in person and by certified mail to the licensee. The order of suspension shall take effect immediately upon service.

E. This section shall not apply to (i) temporary licenses granted under § 4.1-211 or temporary permits granted under § 4.1-212, either of which may be revoked summarily in accordance with § 4.1-211, or (ii) licenses granted pursuant to subdivision 7 or 8 of § 4.1-206.1 or subdivision 1 or 3 of § 4.1-206.2.

2016, c. 42; 2020, cc. 1113, 1114; 2023, c. 597.

§ 4.1-226. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license, other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it finds that:

1. A licensee has violated or permitted the violation of § 18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a license for the sale of alcoholic beverages to the public.

2. In the licensed establishment of a mixed beverage licensee there (i) is entertainment of an obscene nature, entertainment commonly called stripteasing, topless entertaining, or entertainment that has employees who are not clad both above and below the waist or (ii) are employees who solicit the sale of alcoholic beverages. The provisions of clause (i) shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

3. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local

government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

Code 1950, § 18.1-335; 1960, c. 358, § 4-37.1; 1968, c. 7, § 4-98.9; 1974, c. 548; 1975, c. 224; 1993, c. 866; 2008, c. 794; 2013, c. 661.

§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding $2,000 for the first violation occurring within five years immediately preceding the date of the violation or $5,000 for the second violation occurring within five years

immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed $3,000 for the first violation occurring within five years immediately preceding the date of the violation and $6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. The Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding $25,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a consent agreement as authorized in subdivision 21 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c)(1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed $25,000 for the first violation, $50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed $100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;

2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this subtitle or Board regulations.

Code 1950, § 4-37; 1956, c. 521; 1970, cc. 545, 676; 1976, cc. 696, 698, 702; 1978, c. 579; 1979, c. 537; 1980, c. 299; 1981, cc. 24, 586, 600; 1982, c. 214; 1983, c. 608; 1984, cc. 180, 200, 703; 1985, c. 559; 1986, cc. 101, 318, 615; 1987, c. 252; 1991, c. 468; 1992, cc. 161, 820; 1993, c. 866; 1995, cc. 549, 563; 1996, c. 309; 1999, c. 648; 2008, c. 513; 2009, cc. 135, 279; 2017, cc. 698, 707; 2020, cc. 1113, 1114.

§ 4.1-228. Suspension or revocation; disposition of beverages on hand; termination.

A. Alcoholic beverages, other than beer and wine, owned by or in possession of, or for sale by, any licensee at the time the license of such person is suspended or revoked may be disposed of as follows:

1. Sold by such person to the Board at prices and terms agreed upon by the Board and such person;

2. Sold to persons in the Commonwealth licensed to sell such alcoholic beverages upon permits granted by the Board and conditions specified by the Board; or

3. Sold to persons outside the Commonwealth for resale outside the Commonwealth upon permits granted by the Board.

B. Beer and wine owned and in possession of, or either, or for sale by, any licensee at the time the license of such person is suspended or revoked may be sold to any person authorized to purchase the same for resale upon permits granted by the Board and upon payment of any excise tax due thereon.

C. All alcoholic beverages owned by or in possession of any person whose license is suspended or revoked shall be disposed of by such person in accordance with the provisions of this section within sixty days from the date of such suspension or revocation.

D. Alcoholic beverages owned by, or in possession of, or for sale by persons whose licenses have been terminated other than by suspension or revocation may be disposed of in accordance with subsections A or B within such time as the Board deems proper. Such period shall not be less than sixty days.

E. All alcoholic beverages owned by or remaining in the possession of any person described in subsections A, B, or D after the expiration of such period shall be deemed contraband and forfeited to the Commonwealth in accordance with the provisions of § 4.1-338.

Code 1950, § 4-37; 1956, c. 521; 1970, cc. 545, 676; 1976, cc. 696, 698, 702; 1978, c. 579; 1979, c. 537; 1980, c. 299; 1981, cc. 24, 586, 600; 1982, c. 214; 1983, c. 608; 1984, cc. 180, 200, 703; 1985, c. 559; 1986, cc. 101, 318, 615; 1987, c. 252; 1991, c. 468; 1992, cc. 161, 820; 1993, c. 866.

§ 4.1-229. Suspension or revocation of permits; grounds; notice and hearing; exception.

A. The Board may suspend or revoke any permit. The suspension or revocation of any permit shall be in accordance with §§ 4.1-225 and 4.1-227.

B. This section shall not apply to temporary permits granted under § 4.1-212 which may be revoked summarily in the same manner as a temporary license may be revoked under § 4.1-211.

Code 1950, §§ 4-26, 4-59, 4-61.2; 1950, p. 879; 1954, c. 351; 1968, c. 7, § 4-98.16; 1972, cc. 138, 717; 1976, c. 696; 1984, c. 53; 1986, c. 190; 1988, c. 786; 1990, cc. 442, 773; 1993, c. 866.

Article 3. Applications for Licenses and Permits; Fees; Taxes

§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing by the applicant swearing and affirming that all of the information contained therein is true.

Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this subtitle; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place, or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city, or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine and beer shipper's licensees, third-party delivery licensees, delivery permittees, or operators of boats, dining cars, buffet cars, club cars, buses, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine and beer shipper's licenses and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief

law-enforcement or administrative officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be $195, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, or mixed beverage club events licenses, in which case the application fee shall be $15. The application fee for banquet special event and mixed beverage special event licenses shall be $45. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231.1 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

F. The Board shall have the authority to increase state license fees from the amounts set forth in § 4.1-231.1 as it was in effect on January 1, 2022. The Board shall set the amount of such increases on the basis of the consumer price index and shall not increase fees more than once every three years. Prior to implementing any state license fee increase, the Board shall provide notice to all licensees and the general public of (i) the Board's intent to impose a fee increase and (ii) the new fee that would be required for any license affected by the Board's proposed fee increases. Such notice shall be provided on or before November 1 in any year in which the Board has decided to increase state license fees, and such increases shall become effective July 1 of the following year.

Code 1950, §§ 4-26, 4-30, 4-31, 4-33; 1952, c. 535; 1954, cc. 301, 351; 1956, c. 523; 1960, c. 476; 1968, c. 7, § 4-98.16; 1970, c. 627; 1972, cc. 178, 717; 1974, c. 267; 1975, c. 408; 1976, cc. 67, 496, 696, 698; 1978, cc. 190, 446; 1980, cc. 299, 324, 524, 526, § 4-25.1; 1981, c. 410; 1982, cc. 66, 527; 1984, cc. 53, 180, 200, 559, 703; 1985, c. 457; 1986, cc. 94, 190, 615; 1988, c. 786; 1989, c. 311; 1990, cc. 108, 300, 390, 442, 707, 727, 810; 1991, c. 425; 1992, c. 350; 1993, cc. 166, 866; 1994, c. 825; 1996, cc. 584, 596; 1998, c. 535; 1999, cc. 112, 756; 2003, cc. 1029, 1030; 2004, cc. 382, 487; 2004, Sp. Sess. I, c. 4; 2005, cc. 361, 951; 2006, Sp. Sess. I, c. 2; 2007, cc. 99, 799; 2008, c. 765; 2011, c. 65; 2015, c. 412; 2017, c. 596; 2018, cc. 405, 406, 657; 2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 82, 186; 2022, cc. 78, 79.

§ 4.1-231. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-231.1. (Effective until July 1, 2024) Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, $490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $2,725; and if more than 36,000 gallons manufactured during such year, $4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, $2,350; and if more than 10,000 barrels manufactured during such year, $4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, $215, and if more than 5,000 gallons manufactured during such year, $4,210;

d. Farm winery license, $275 for any Class I or Class II license, $500 for any Class III license, and $4,000 for any Class IV license;

e. Wine importer's license, $460; and

f. Beer importer's license, $460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, $1,005 for any wholesaler who sells 300,000 cases of beer a year or less, $1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and $2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, $240 for any wholesaler who sells 30,000 gallons of wine or less per year, $1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, $1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and $2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including that granted pursuant to subdivision 3 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, $3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, $1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, $2,440; and

(3) With an average yearly membership of more than 500 resident members, $3,410;

c. Mixed beverage casino license, $3,100 plus an additional $5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $1,990;

e. Mixed beverage limited caterer's license, $550;

f. Mixed beverage carrier license:

(1) $520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) $910 for each common carrier of passengers by boat;

(3) $520 for each common carrier of passengers by bus; and

(4) $2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, $630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,385; and

(3) With a seating capacity at tables for more than 150 persons, $1,875;

i. Annual mixed beverage performing arts facility license, $630;

j. Bed and breakfast license, $100;

k. Museum license, $260;

l. Motor car sporting event facility license, $300;

m. Commercial lifestyle center license, $300;

n. Mixed beverage port restaurant license, $1,050; and

o. Annual mixed beverage special events license, $630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, $450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, $300;

b. Gourmet brewing shop license, $320; and

c. Confectionery license, $170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, $40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $100 per license;

(2) Mixed beverage special events license, $45 for each day of each event;

(3) Mixed beverage club events license, $35 for each day of each event; and

(4) Tasting license, $40.

b. Annual licenses. For each:

(1) Annual banquet license, $300;

(2) Banquet facility license, $260;

(3) Designated outdoor refreshment area license, $300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be $3,000;

(4) Annual mixed beverage banquet license, $630;

(5) Equine sporting event license, $300; and

(6) Annual arts venue event license, $300.

7. Retail licenses — marketplace. For each marketplace license, $1,000. However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual fee shall be $500.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $230;

b. Internet wine and beer retailer license, $240;

c. Bottler license, $1,500;

d. Fulfillment warehouse license, $210;

e. Marketing portal license, $285; and

f. Third-party delivery license, $7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be $2,500.

9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first $163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first $163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of $5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 390, 391; 2022, cc. 78, 79, 589, 590; 2023, cc. 551, 731.

§ 4.1-231.1. (Effective July 1, 2024) Fees on state licenses.

A. (Contingent expiration date) The annual fees on state licenses shall be as follows:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, $490; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $2,725; and if more than 36,000 gallons manufactured during such year, $4,060;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $380; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, $2,350; and if more than 10,000 barrels manufactured during such year, $4,690;

c. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, $215, and if more than 5,000 gallons manufactured during such year, $4,210;

d. Farm winery license, $275 for any Class I or Class II license, $500 for any Class III license, and $4,000 for any Class IV license;

e. Wine importer's license, $460; and

f. Beer importer's license, $460.

2. Wholesale licenses. For each:

a. (1) Wholesale beer license, $1,005 for any wholesaler who sells 300,000 cases of beer a year or less, $1,545 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and $2,010 for any wholesaler who sells more than 600,000 cases of beer a year; and

(2) Wholesale beer license, including a license granted pursuant to subdivision 2 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision a (1), multiplied by the number of separate locations covered by the license;

b. (1) Wholesale wine license, $240 for any wholesaler who sells 30,000 gallons of wine or less per year, $1,200 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, $1,845 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and $2,400 for any wholesaler who sells more than 300,000 gallons of wine per year; and

(2) Wholesale wine license, including a license granted pursuant to subdivision 4 of § 4.1-206.2, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $1,050;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,495;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $1,980;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $2,500; and

(5) With a seating capacity at tables for more than 1,000 persons, $3,100;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(1) With an average yearly membership of not more than 200 resident members, $1,250;

(2) With an average yearly membership of more than 200 but not more than 500 resident members, $2,440; and

(3) With an average yearly membership of more than 500 resident members, $3,410;

c. Mixed beverage casino license, $3,100 plus an additional $5 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $1,990;

e. Mixed beverage limited caterer's license, $550;

f. Mixed beverage carrier license:

(1) $520 for each of the average number of dining cars, buffet cars, or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(2) $910 for each common carrier of passengers by boat;

(3) $520 for each common carrier of passengers by bus; and

(4) $2,360 for each license granted to a common carrier of passengers by airplane;

g. Annual mixed beverage motor sports facility license, $630;

h. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $945;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $1,385; and

(3) With a seating capacity at tables for more than 150 persons, $1,875;

i. Annual mixed beverage performing arts facility license, $630;

j. Bed and breakfast license, $100;

k. Museum license, $260;

l. Motor car sporting event facility license, $300;

m. Commercial lifestyle center license, $300;

n. Mixed beverage port restaurant license, $1,050; and

o. Annual mixed beverage special events license, $630.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license, $450.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, $300;

b. Gourmet brewing shop license, $320; and

c. Confectionery license, $170.

6. Retail licenses — banquet, special event, and tasting licenses.

a. Per-day event licenses. For each:

(1) Banquet license, $40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $100 per license;

(2) Mixed beverage special events license, $45 for each day of each event;

(3) Mixed beverage club events license, $35 for each day of each event; and

(4) Tasting license, $40.

b. Annual licenses. For each:

(1) Annual banquet license, $300;

(2) Banquet facility license, $260;

(3) Designated outdoor refreshment area license, $300. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual fee shall be $3,000;

(4) Annual mixed beverage banquet license, $630;

(5) Equine sporting event license, $300; and

(6) Annual arts venue event license, $300.

7. Retail licenses — marketplace. For each marketplace license, $1,000. However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual fee shall be $500.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $230;

b. Internet wine and beer retailer license, $240;

c. Bottler license, $1,500;

d. Fulfillment warehouse license, $210;

e. Marketing portal license, $285; and

f. Third-party delivery license, $7,500, unless the licensee provides written certification to the Board that the licensee has no more than 25 delivery personnel, including employees, agents, and independent contractors that engage in direct-to-consumer alcoholic beverage delivery, in which case the license fee shall be $2,500.

9. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first $163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first $163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of $5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 390, 391; 2022, cc. 78, 79, 589, 590; 2023, cc. 551, 597, 731.

§ 4.1-232. Refund of state license tax.

A. The Board may correct erroneous assessments made by it against any person and make refunds of any amounts collected pursuant to erroneous assessments, or collected as taxes on licenses, which are subsequently refused or application therefor withdrawn, and to allow credit for any license taxes paid by any licensee for any license that is subsequently merged or changed into another license during the same license period. No refund shall be made of any such amount, however, unless made within three years from the date of collection of the same.

B. In any case where a licensee has changed its name or form of organization during a license period without any change being made in its ownership, and because of such change is required to pay an additional license tax for such period, the Board shall refund to such licensee the amount of such tax

so paid in excess of the required license tax for such period.

C. The Board shall make refunds, prorated according to a schedule of its prescription, to licensees of state license taxes paid pursuant to subsection A of § 4.1-231.1 if the place of business designated in the license is destroyed by an act of God, including but not limited to fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

D. Any amount required to be refunded under this section shall be paid by the State Treasurer out of moneys appropriated to the Board and in the manner prescribed in § 4.1-116.

Code 1950, §§ 4-33, 4-35; 1952, c. 535; 1960, c. 476; 1970, c. 627; 1972, c. 717; 1974, c. 267; 1976, c. 496; 1978, c. 190; 1980, cc. 524, 526; 1982, cc. 66, 527; 1984, cc. 180, 559; 1986, c. 190; 1990, cc. 300, 390, 707; 1991, c. 425; 1992, c. 350; 1993, c. 866; 2011, c. 728; 2015, c. 412; 2020, cc. 1113, 1114.

§ 4.1-233. Repealed.

Repealed by Acts 2020, cc. 1113 and 1114, as amended by Acts 2021, Sp. Sess. I, c. 82, effective January 1, 2022.

§ 4.1-233.1. Fees on local licenses.

A. In addition to the state license taxes, the annual local license taxes that may be collected shall not exceed the following sums:

1. Manufacturer licenses. For each:

a. Distiller's license and limited distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, $750; if more than 36,000 gallons manufactured during such year, $1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Brewery license and limited brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, $250, and if more than 500 barrels manufactured during such year, $1,000;

c. Winery license, $50; and

d. Farm winery license, $50.

2. Wholesale licenses. For each:

a. Wholesale beer license, in a city, $250, and in a county or town, $75; and

b. Wholesale wine license, $50.

3. Retail licenses — mixed beverage. For each:

a. Mixed beverage restaurant license, granted to persons operating restaurants, including restaurants located on premises of and operated by casinos, hotels or motels, or other persons:

(1) With a seating capacity at tables for up to 100 persons, $200;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $350;

(3) With a seating capacity at tables for more than 150 persons but not more than 500 persons, $500;

(4) With a seating capacity at tables for more than 500 persons but not more than 1,000 persons, $650; and

(5) With a seating capacity at tables for more than 1,000 persons, $800;

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs, $350;

c. Mixed beverage casino license, $800 plus an additional $2 for each gaming station located on the premises of the casino gaming establishment. For the purposes of this subdivision, "gaming station" means each slot machine and each casino gaming table that is in active use, as determined annually on December 31;

d. Mixed beverage caterer's license, $500;

e. Mixed beverage limited caterer's license, $100;

f. Annual mixed beverage motor sports facility license, $300;

g. Limited mixed beverage restaurant license:

(1) With a seating capacity at tables for up to 100 persons, $100;

(2) With a seating capacity at tables for more than 100 but not more than 150 persons, $250; or

(3) With a seating capacity at tables for more than 150 persons, $400;

h. Annual mixed beverage performing arts facility license, $300;

i. Bed and breakfast license, $40;

j. Museum license, $10;

k. Motor car sporting event facility license, $10;

l. Commercial lifestyle center license, $60; and

m. Annual mixed beverage special events license, $300.

4. Retail licenses — on-and-off-premises wine and beer. For each on-and-off premises wine and beer license issued to:

a. Hotels, restaurants, and clubs, in a city, $150, and in a county or town, $37.50;

b. Hospitals, $10;

c. Rural grocery stores, $37.50; and

d. Historic cinema houses, $20.

5. Retail licenses — off-premises wine and beer. For each:

a. Retail off-premises wine and beer license, in a city, $150, and in a county or town, $37.50;

b. Gourmet brewing shop license, $150; and

c. Confectionery license, $20.

6. Retail licenses — banquet, special event, and tasting licenses. For each:

a. Per-day event licenses. For each:

(1) Banquet license, $5 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be $20 per license;

(2) Mixed beverage special events license, $10 for each day of each event;

(3) Mixed beverage club events license, $10 for each day of each event; and

(4) Tasting license, $10.

b. Annual licenses. For each:

(1) Annual banquet license, $15;

(2) Designated outdoor refreshment area license, $60. However, for any designated outdoor refreshment area license issued pursuant to a local ordinance, the annual tax shall be $600;

(3) Annual mixed beverage banquet license, $75;

(4) Equine sporting event license, $10; and

(5) Annual arts venue event license, $10.

7. Retail licenses — marketplace. For each marketplace license, $200. However, if the license privileges are exercised during a period of six or less consecutive months and such period is specified prior to the beginning of the license year, the annual tax shall be $100.

8. Retail licenses — shipper, bottler, and related licenses. For each:

a. Wine and beer shipper's license, $10; and

b. Bottler license, $500.

B. Common carriers. No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats, buses, or airplanes or (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. The governing body of each county, city, or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city, or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. No county, city, or town shall impose any local alcoholic beverage license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city, or town when such wholesaler maintains no place of business in such county, city, or town.

E. Application of county tax within town. Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town imposes a town license tax on the same privilege.

2020, cc. 1113, 1114; 2021, Sp. Sess. I, cc. 82, 390, 391; 2022, cc. 589, 590; 2023, c. 551.

§ 4.1-234. Tax on wine and other alcoholic beverages; exceptions.

A. In addition to the taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, a tax of 40 cents is levied on each liter of wine sold in the Commonwealth. Additionally, on vermouth and on farm winery wines sold to consumers by the Board the state tax shall be four percent of the price charged.

B. There is levied on other alcoholic beverages sold by the Board a tax of 20 percent of the price charged. This subsection shall also apply to all alcoholic beverages purchased from the Board by any mixed beverage licensee.

C. The provisions of this section shall not apply to (i) beer, (ii) wine coolers, (iii) sales of wine by manufacturers to wholesale wine licensees for resale to retail licensees, (iv) sales, other than by or through government stores, of alcoholic beverages for manufacturing and industrial purposes, or either, (v) sales, other than by or through government stores, of alcohol for hospital and laboratory purposes, or either, (vi) alcoholic beverages shipped from the Commonwealth to points outside the Commonwealth, for resale outside the Commonwealth, (vii) alcoholic beverages shipped from the Commonwealth to consumers outside the Commonwealth for personal consumption and not for

resale, and (viii) sales to any instrumentality of the federal government.

1968, c. 609, § 4-98.20; 1980, c. 624, § 4-22.1; 1981, cc. 381, 407; 1982, cc. 540, 556; 1984, c. 200; 1985, cc. 222, 457; 1986, c. 130; 1993, c. 866; 2011, cc. 238, 299.

§ 4.1-235. Collection; computation, distribution of tax on wine and other alcoholic beverages; refunds and adjustments.

A. The Board shall collect the state taxes levied pursuant to §§ 4.1-213 and 4.1-234 as follows:

1. Collection shall be from the purchaser at the time of or prior to sale, except as to sales made to wholesale wine licensees. Wholesale wine licensees shall collect the taxes at the time of or prior to sale to retail licensees, and shall remit such taxes monthly to the Board, along with such reports as may be required by the Board, at the time and in the manner prescribed by the Board.

2. In establishing the prices for items sold by it to persons other than wholesale licensees, the Board shall include a reasonable markup. The liter tax or 20 percent tax, as appropriate, shall then be added to the price of each container of alcoholic beverages. The four percent tax on vermouth and farm winery wines and ciders shall then be added for those products. In all cases the final price for each container may be established so as to be a multiple of five or rounded to end with a nine.

In accounting for the state tax on sales the Board shall divide the net sales for the quarter by 1.20 and multiply the result by 20 percent. As to the sale of vermouth and farm winery wine and cider, the Board shall divide the net sales for the quarter by 1.04 and multiply the result by four percent.

B. The amount of tax collected under this section during each quarter shall, within 50 days after the close of such quarter, be certified to the Comptroller by the Board and shall be transferred by him from the special fund described in § 4.1-116 to the general fund of the state treasury. The Board shall, not later than June 20 of every year, estimate the yield of the state tax on sales imposed by §§ 4.1-213 and 4.1-234 for the quarter ending June 30 and certify the amount of such estimate to the Comptroller, whereupon the Comptroller shall, before the end of the month, transfer the amount of such estimate from the special fund described in § 4.1-116 to the general fund of the state treasury, subject to such adjustment on account of an overestimate or underestimate as may be indicated within 50 days after the close of the quarter ending on June 30.

Forty-four percent of the amount derived from the liter tax levied pursuant to §§ 4.1-213 and 4.1-234 shall be transferred to the general fund and paid to the several counties, cities, and towns of the Commonwealth in proportion to their respective populations, and is appropriated for such purpose.

The counties, cities, and towns shall in no event receive from the taxes derived from the sale of wines less revenue than was received by such counties, cities, and towns for the year ending June 30, 1976.

The portion of wine liter tax and cider markup collected pursuant to §§ 4.1-213 and 4.1-234 that is attributable to the sale of wine and cider produced by a farm winery shall be deposited in the Virginia Wine Promotion Fund established pursuant to § 3.2-3005.

Twelve percent of the amount derived from the liter tax levied shall be retained by the Board as operating revenue and distributed as provided in § 4.1-117.

Twenty percent of the portion of tax collected pursuant to subsection B of § 4.1-234 that is attributable to the sale of spirits produced by a distiller licensee shall be deposited in the Virginia Spirits Promotion Fund established pursuant to § 3.2-3012.

C. As used in this section, the term "net sales" means gross sales less refunds to customers.

D. The Board may make a refund or adjustment of any tax paid to it under this section when (i) the wine upon which such tax has been paid has been condemned and is not permitted to be sold in the Commonwealth, or (ii) wine is returned by a retail licensee to a wholesale wine licensee for refund in accordance with Board regulations or approval. Any claim for such refund or adjustment shall be made to the Board in the report filed with the Board by the wholesale wine licensee for the period in which such return and refund occurs.

1980, c. 624, § 4-22.1; 1981, c. 407; 1982, cc. 540, 556; 1984, c. 200; 1985, cc. 222, 457; 1986, c. 130; 1993, c. 866; 2010, cc. 247, 362; 2015, cc. 4, 21; 2016, cc. 24, 140; 2022, cc. 84, 85.

§ 4.1-236. Excise tax on beer and wine coolers; payment of tax; exceptions.

A. There is levied on all beer and wine coolers sold in the Commonwealth an excise tax at the rate of:

1. Twenty-five and sixty-five hundredths cents per gallon per barrel;

2. Two cents per bottle on bottles of not more than seven ounces each;

3. Two and sixty-five hundredths cents per bottle on bottles of more than seven ounces each but not more than twelve ounces each; and

4. Two and twenty-two one hundredths mills per ounce per bottle on bottles of more than twelve ounces each.

B. The tax herein levied shall be paid by the manufacturer, bottler or wholesaler selling beer or wine coolers to licensed retailers.

C. Any person selling or offering for sale in the Commonwealth any beer or wine coolers purchased or obtained from any person not licensed either as a manufacturer, bottler or wholesaler under this chapter, and on which the excise tax levied has not been paid, shall pay the tax.

D. This section shall not apply to any manufacturer, bottler or wholesaler of any beer or wine coolers, which are:

1. Shipped out of the Commonwealth by such manufacturer, bottler or wholesaler for resale outside of the Commonwealth;

2. Sold to the United States or to any instrumentality thereof for resale to or for the use or consumption by members of the armed forces of the United States;

3. Sold to the U.S. Department of Veterans Affairs for resale to veterans of the armed services of the United States who are hospitalized or domiciled in hospitals and homes of the U.S. Department of Veterans Affairs within the geographical confines of the Commonwealth;

4. Shipped to a post exchange of the armed forces of the United States for resale by such post exchange, whether such post exchange is located on a United States military reservation or not;

5. Shipped to any instrumentality of the United States which is exempt on constitutional grounds from the excise tax levied by this section; or

6. Sold and delivered to foreign boats or aircraft actually engaged in foreign commerce or commerce between any ports of the United States or commerce between the United States and any of its possessions outside of the several states and the District of Columbia.

The exceptions allowed in subdivisions 1, 4, and 5 of this subsection shall be applicable only if, in each case, evidence satisfactory to the Board is submitted in writing that such beer or wine coolers were so shipped.

1988, c. 261, §§ 4-128, 4-129, 4-130; 1993, c. 866.

§ 4.1-237. Refund and adjustments on excise tax on beer and wine coolers.

A. Whenever it is proved to the satisfaction of the Board that the tax levied pursuant to § 4.1-236 has been paid and that beer or wine coolers were or are (i) damaged, destroyed or otherwise deemed to be unsalable by reason of fire or any other providential cause before sale to the consumer, (ii) destroyed voluntarily because the beer or wine coolers were defective and after notice to and approval by the Board of such destruction or (iii) destroyed in any manner while in possession of a common, private or contract carrier, the Board shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper. The manufacturer, bottler or wholesaler shall make a report thereof to the Board as a portion of the report required by § 4.1-239.

B. Whenever it is proved to the satisfaction of the Board that any person has purchased beer or wine coolers which have been sold by him in such manner as to be exempt from the excise tax levied under § 4.1-236, the Board shall certify such facts to the Comptroller for approval of a refund payment from the state treasury to such extent as may be proper.

1988, c. 261, §§ 4-141, 4-142; 1993, c. 866.

§ 4.1-238. Bond required to secure excise tax liability on beer and wine coolers, and wine stored in bonded warehouses.

A. Every manufacturer, bottler, or wholesaler, as a condition precedent to obtaining a license to sell beer or wine coolers to a licensed retailer, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such manufacturer, bottler, or wholesaler. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or wholesaler, but shall in no event be less than $1,000 or more than $100,000. Such bond shall be conditioned upon the payment by such manufacturer, bottler, or wholesaler of the tax imposed by § 4.1-236.

B. Every holder of a bonded warehouse permit, issued in accordance with subdivision 13 of § 4.1-212, as a condition to obtaining the permit, shall file a bond with the Board in such sum and with such surety as the Board deems adequate to cover the tax liability of each such permittee. The sum of such bond shall be proportioned to the volume of business of each such manufacturer, bottler, or

wholesaler, but shall in no event be less than $1,000 or more than $10,000. Such bond shall be conditioned upon the payment by the permittee of the tax imposed by § 4.1-234.

C. The Board may waive the requirement of both the surety and the bond, in cases where a manufacturer, bottler, or wholesaler has previously demonstrated his financial responsibility.

D. Upon the termination of the bond, its guaranty or surety, the Board, upon reasonable notice to the manufacturer, bottler, or wholesaler so licensed, may suspend the license so granted until such times as the required bond is filed or the proper surety or guaranty is given.

1988, c. 261, § 4-138; 1993, c. 866; 2003, c. 564; 2020, cc. 1113, 1114.

§ 4.1-239. Monthly reports and payment of excise tax on beer and wine coolers; filing by nonresident manufacturer; commissions.

A. On or before the tenth day of each month, each manufacturer, bottler, wholesaler or other person selling beer or wine coolers in the Commonwealth who is chargeable with the payment of excise taxes imposed by § 4.1-236 shall file a report under oath with the Board, on forms prescribed by the Board, showing the quantity of all beer and wine coolers manufactured, bottled or sold by such person during the preceding calendar months. Such report shall also contain any other information the Board may require. Common carriers of passengers by train or boat licensed to sell beer or wine coolers in dining cars, buffet cars, club cars or on such boats shall have thirty days from the end of each calendar month to file such reports. At the time of filing, such person shall pay the Board all excise taxes chargeable against him under the provisions of § 4.1-236, unless the taxes have been previously paid.

B. In addition to the requirements of subsection A, on or before the fifteenth day of each month each nonresident manufacturer shall forward a copy of each invoice required by Board regulation or a listing of all such invoices for the preceding month to the Board as a condition of shipment into or doing business in the Commonwealth.

C. Any person filing the report required by this section and paying such excise tax required by subsection B of § 4.1-236 shall be allowed a commission of one percent of the amount of tax due as compensation for the expense of maintaining records and preparing reports so as to account for and remit the tax levied by § 4.1-236. Such commission shall also be allowed as compensation for the expense, if any, of compliance with the requirements of § 4.1-238. Such commission shall be accounted for in the form of a deduction from the amount of tax which would otherwise be due.

1988, c. 261, §§ 4-131, 4-132, 4-133; 1993, c. 866.

§ 4.1-240. Collection of taxes and fees; service charge; storage of credit card, debit card, and automated clearinghouse information.

A. The Board may accept payment by any commercially acceptable means, including checks, credit cards, debit cards, and electronic funds transfers, for the taxes, penalties, or other fees imposed on a licensee in accordance with this subtitle. In addition, the Board may assess a service charge for the use of a credit or debit card. The service charge shall not exceed the amount negotiated and agreed to in a contract with the Department.

B. Upon the request of a license applicant or licensee, the Board may collect and maintain a record of

the applicant's or licensee's credit card, debit card, or automated clearinghouse transfer information and use such information for future payments of taxes, penalties, other fees, or amounts due for products purchased from the Board. The Board may assess a service charge as provided in subsection A for any payments made under this subsection. The Board may procure the services of a third-party vendor for the secure storage of information collected pursuant to this subsection.

2000, c. 801; 2015, c. 412.

Chapter 3. Prohibited Practices; Penalties; Procedural Matters.

Article 1. Prohibited Practices Generally

§ 4.1-300. Illegal manufacture and bottling; penalty.

A. Except as otherwise provided in §§ 4.1-200 and 4.1-201, no person shall manufacture alcoholic beverages in the Commonwealth without being licensed under this subtitle to manufacture such alcoholic beverages. Nor shall any person, other than a brewery licensee or bottler's licensee, bottle beer for sale.

B. The presence of mash at an unlicensed distillery shall constitute manufacturing within the meaning of this section.

C. Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

Code 1950, § 4-57; 1954, c. 484; 1974, c. 460; 1993, c. 866.

§ 4.1-301. Conspiracy to violate § 4.1-300; penalty.

If two or more persons conspire together to do any act which is in violation of § 4.1-300, and one or more of these persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be guilty of a Class 6 felony.

1956, c. 70, § 4-57.1; 1993, c. 866.

§ 4.1-302. Illegal sale of alcoholic beverages in general; penalty.

If any person who is not licensed sells any alcoholic beverages except as permitted by this subtitle, he shall be guilty of a Class 1 misdemeanor.

In the event of a second or subsequent conviction under this section, a jail sentence of no less than thirty days shall be imposed and in no case be suspended.

Code 1950, § 4-58; 1952, c. 491; 1984, c. 603; 1993, c. 866.

§ 4.1-302.1. Use of alcohol vaporizing devices prohibited; penalty.

A. No person shall purchase, offer for sale or use, sell or use any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

2006, c. 714.

§ 4.1-302.2. Sale, purchase, use of powdered or crystalline alcohol prohibited; penalty.

A. No person shall purchase or possess, offer for sale or use, sell, or use any powdered or crystalline alcohol product.

B. As used in this section, "powdered or crystalline alcohol" means a product that is manufactured into a powdered or crystalline form and that contains any amount of alcohol.

C. A violation of this section is a Class 1 misdemeanor.

2015, cc. 25, 735.

§ 4.1-303. Purchase of alcoholic beverages from person not authorized to sell; penalty.

If any person buys alcoholic beverages from any person other than the Board, a government store or a person authorized under this subtitle to sell alcoholic beverages, he shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-71; 1968, c. 7; 1993, c. 866.

§ 4.1-304. Persons to whom alcoholic beverages may not be sold; proof of legal age; penalty.

A. No person shall, except pursuant to subdivisions 1 through 5 of § 4.1-200, sell any alcoholic beverages to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated. Any person convicted of a violation of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who sells, except pursuant to subdivisions 1 through 5 of § 4.1-200, any alcoholic beverage to an individual who is less than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's license issued by any state of the United States or the District of Columbia, military identification card, United States passport or foreign government visa, unexpired special identification card issued by the Department of Motor Vehicles, or any other valid government-issued identification card bearing the individual's photograph, signature, height, weight, and date of birth, or which bears a photograph that reasonably appears to match the appearance of the purchaser. A student identification card shall not constitute bona fide evidence of legal age for purposes of this subsection. Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor. Notwithstanding the provisions of § 4.1-202, the Board shall not take administrative action against a licensee for the conduct of his employee who violates this subsection.

C. No person shall be convicted of both subsections A and B for the same sale.

Code 1950, § 4-62; 1970, c. 686; 1974, c. 460; 1979, c. 537; 1981, c. 24; 1982, c. 66; 1983, c. 608; 1985, c.

559; 1990, c. 771; 1993, c. 866; 2013, c. 562.

§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education programs and services.

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer or his agent when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section is guilty of a Class 1 misdemeanor, and upon conviction (i) such person shall be ordered to pay a mandatory minimum fine of $500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted license under the provisions of this subsection to be (a) monitored by an alcohol safety action program or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted license, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

E. Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-304.

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services rather than the alcohol safety action program, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a conviction for the purpose of applying this section in any subsequent proceedings.

When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

Code 1950, § 4-62; 1970, c. 686; 1974, c. 460; 1979, c. 537; 1981, c. 24; 1982, c. 66; 1983, c. 608; 1985, c. 559; 1990, c. 771; 1993, c. 866; 1995, c. 374; 1996, cc. 626, 730; 2000, c. 325; 2002, c. 338; 2003, cc. 845, 849; 2004, cc. 322, 461; 2005, c. 895; 2006, c. 207; 2007, c. 133; 2009, cc. 248, 726, 813, 840; 2012, cc. 250, 260; 2020, cc. 1227, 1246.

§ 4.1-306. Purchasing alcoholic beverages for one to whom they may not be sold; penalty; forfeiture.

A. Any person who purchases alcoholic beverages for another person, and at the time of such purchase knows or has reason to believe that the person for whom the alcoholic beverage was purchased was (i) interdicted, or (ii) intoxicated, is guilty of a Class 1 misdemeanor.

A1. Any person who purchases for, or otherwise gives, provides, or assists in the provision of alcoholic beverages to another person, when he knows or has reason to know that such person was less than 21 years of age, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the

alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

B. In addition to any other penalty authorized by law, any person found guilty of a violation of this section shall have his license to operate a motor vehicle suspended for a period of not more than one year. The court, in its discretion, may authorize any person convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection D of § 16.1-278.9 or subsection E of § 18.2-271.1.

C. Any alcoholic beverages purchased in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

Code 1950, § 4-73; 1970, c. 686; 1993, c. 866; 2005, cc. 895, 898; 2006, c. 87; 2011, c. 31.

§ 4.1-307. Persons by whom alcoholic beverages may not be sold or served for on-premises consumption; penalty.

No person shall permit anyone employed by him under the age of (i) eighteen years to sell, serve or dispense in any manner alcoholic beverages for on-premises consumption, except pursuant to subdivisions 1 through 5 of § 4.1-200 or (ii) twenty-one years to prepare or mix alcoholic beverages in the capacity of bartender.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-63; 1974, c. 460; 1982, c. 66; 1983, c. 608; 1993, c. 866.

§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license, mixed beverage special events license, or designated outdoor refreshment area license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for

compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.

Code 1950, § 4-78; 1956, c. 23; 1972, c. 143; 1977, c. 439; 1979, c. 622; 1986, c. 113; 1988, c. 893; 1989, c. 42; 1990, c. 932; 1993, c. 866; 2017, cc. 157, 492; 2019, c. 622; 2021, Sp. Sess. I, cc. 390, 391.

§ 4.1-309. Drinking or possessing alcoholic beverages in or on public school grounds; penalty.

A. No person shall possess or drink any alcoholic beverage in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall drink and no organization shall serve any alcoholic beverage in or upon the grounds of any public elementary or secondary school after school hours or school or student activities, except for religious congregations using wine for sacramental purposes only.

C. Any person convicted of a violation of this section shall be guilty of a Class 2 misdemeanor.

D. This section shall not prohibit any person from possessing or drinking alcoholic beverages or any organization from serving alcoholic beverages in areas approved by the Board at a performing arts center owned by the City of Alexandria or the City of Portsmouth, provided the organization operating the performing arts center or its lessee has a license granted by the Board.

1954, c. 651, § 4-78.1; 1982, c. 288; 1991, c. 710; 1993, c. 866; 1994, c. 844; 1997, cc. 784, 837; 2007, c. 813.

§ 4.1-309.1. Possessing or consuming alcoholic beverage while operating a school bus; penalty.

Any person who possesses or consumes an alcoholic beverage while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For purposes of this section, "school bus" shall have the same meaning as provided in § 46.2-100.

2010, c. 169.

§ 4.1-310. Repealed.

Repealed by Acts 2022, c. 201, cl. 2.

§ 4.1-310.1. (Effective until July 1, 2024) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this subtitle or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 3 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

2018, cc. 166, 167; 2020, cc. 1113, 1114.

§ 4.1-310.1. (Effective July 1, 2024) Delivery of wine or beer to retail licensee.

Except as otherwise provided in this subtitle or in Board regulation, no wine or beer may be shipped or delivered to a retail licensee for resale unless such wine or beer has first been (i) delivered to the licensed premises of a wine or beer wholesaler and unloaded, (ii) kept on the licensed premises of the wholesaler for not less than four hours prior to reloading on a vehicle, and (iii) recorded in the wholesaler's inventory. Any holder of a restricted wholesale wine license issued pursuant to subdivision 4 of § 4.1-206.2 shall be exempt from the requirement set forth in clause (ii).

2018, cc. 166, 167; 2020, cc. 1113, 1114; 2023, c. 597.

§ 4.1-311. Limitations on transporting lawfully purchased alcoholic beverages; penalty.

A. Except as otherwise permitted under subsection F of § 4.1-206.3 or § 4.1-209.1 or 4.1-212.1, the transportation of alcoholic beverages is prohibited except in accordance with Board regulations and the following provisions:

1. Wine may be (i) if lawfully purchased in the Commonwealth for personal use and not for resale, transported within the Commonwealth in the personal possession of the purchaser; (ii) if lawfully purchased outside the Commonwealth for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed three gallons; or (iii) transported into the Commonwealth if consigned to a wholesale wine licensee.

2. Beer may be (i) if lawfully purchased in the Commonwealth for personal use and not for resale, transported within the Commonwealth in the personal possession of the purchaser; (ii) if lawfully purchased outside the Commonwealth for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed three gallons; or (iii) transported into the Commonwealth if consigned to a wholesale beer licensee.

3. Alcoholic beverages other than wine and beer may be (i) if lawfully purchased for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed three gallons or (ii) transported into the Commonwealth if such alcoholic beverages (a) are consigned to the Board, (b) are being transported to a distillery or winery licensee, or (c) are ordered by the Board and are being transported directly to persons for industrial purposes, persons for the manufacture of articles allowed to be manufactured under § 4.1-200, or hospitals pursuant to a permit issued by the Board for which the Board may charge a reasonable fee.

B. The provisions of this section shall not be construed to prohibit (i) any person from bringing, through U.S. Customs in his accompanying baggage, into the Commonwealth for personal use and not for resale alcoholic beverages in an amount not to exceed three gallons; (ii) the transportation into the Commonwealth of a reasonable quantity of alcoholic beverages for personal use and not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth; or (iii) the transportation of alcoholic beverages on passenger boats, dining cars, buffet cars, or club cars licensed under this subtitle or by common carriers engaged in interstate or foreign commerce.

C. Any person transporting alcoholic beverages in violation of this section is guilty of a Class 1

misdemeanor.

Code 1950, § 4-72; 1974, c. 460, § 4-72.1; 1975, c. 480; 1978, c. 436; 1993, c. 866; 2022, c. 201.

§ 4.1-312. Limitation on carrying alcoholic beverages in motor vehicle transporting passengers for hire; penalty.

The transportation of alcoholic beverages in any motor vehicle which is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-74; 1993, c. 866.

§ 4.1-313. Possessing, transporting, etc., alcoholic beverages illegally acquired; penalty.

A. No person, other than a common carrier, shall have, possess, keep, carry, ship or transport alcoholic beverages upon which the tax imposed by the laws of the United States has not been paid.

B. No person shall possess alcoholic beverages in amounts in excess of the limits provided in § 4.1-311 in containers not bearing evidence that they have been purchased from the Board or a person licensed to sell them, or other evidence that the tax due to the Commonwealth or the markup required by the Board has been paid, unless it can be proved that the alcoholic beverages were lawfully acquired by the possessor.

C. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-75; 1954, c. 484; 1966, c. 408; 1974, c. 460; 1975, c. 481; 1976, c. 36; 1984, c. 603; 1993, c. 866.

§ 4.1-314. Keeping, possessing, or storing still or distilling apparatus without a permit; penalty.

No person shall keep, store, or have in his possession any still or distilling apparatus for the purpose of distilling alcohol without a permit from the Board.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-77; 1993, c. 866; 2020, c. 386.

§ 4.1-315. Possession without license to sell alcoholic beverages upon premises of restaurant; exceptions; penalty.

A. No alcoholic beverages shall be kept or allowed to be kept upon any premises or upon the person of any proprietor or person employed upon the premises of a restaurant or other place where food or refreshments of any kind are furnished for compensation, except such alcoholic beverages as such person owning or operating such place of business is licensed to purchase and to sell at such place of business.

B. This section shall not apply to (i) any residence; (ii) alcoholic beverages in the possession of a passenger being transported for compensation as provided in subsection D of § 4.1-308; (iii) dining areas in restaurants licensed by the Board while such areas are in use for private meetings or parties limited in attendance to members and guests of a particular group, association or organization; (iv) licensed restaurants in office buildings, industrial or similar facilities while such restaurant is closed to the public and is in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (v) any dining areas or private rooms of residents in an assisted living facility as defined in § 63.2-100 and licensed in accordance with Article 1 (§ 63.2-1800 et seq.) of Chapter 18 of Title 63.2.

C. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, p. 876, § 4-61; 1954, c. 512; 1958, c. 270; 1968, c. 7; 1972, c. 168; 1974, c. 497; 1990, c. 932; 1993, c. 866; 2010, c. 114.

§ 4.1-316. Keeping or drinking alcoholic beverages upon premises of club; penalty.

No person operating a club for profit or otherwise, either public or private, shall (i) keep or allow to be kept any alcoholic beverages, either by himself or any other person, upon the premises or (ii) permit the drinking of any alcoholic beverages upon the premises, unless he is licensed to sell alcoholic beverages.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-61.1; 1954, c. 147; 1993, c. 866.

§ 4.1-317. Maintaining common nuisances; penalties.

A. All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars and places of every description where alcoholic beverages are manufactured, stored, sold, dispensed, given away or used contrary to law, by any scheme or device whatever, shall be deemed common nuisances.

No person shall maintain, aid, abet or knowingly associate with others in maintaining a common nuisance.

Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

B. In addition, after due notice and opportunity to be heard on the part of any owner or lessor not involved in the original offense, by a proceeding analogous to that provided in §§ 4.1-339 through 4.1-348 and upon proof of guilty knowledge, judgment may be given that such house, building, boathouse, car or other place, or any room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the penalty of not less than $500 and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of the provisions of this chapter for a period of five years, turn the same over to its owner or lessor; or proceeding may be had in equity as provided in § 4.1-335.

C. In a proceeding under this section, judgment shall not be entered against the owner, lessor, or lienholder of the property unless it is proved he (i) knew of the unlawful use of the property and (ii) had the right, because of such unlawful use, to enter and repossess the property.

Code 1950, p. 877, § 4-81; 1954, c. 484; 1993, c. 866.

§ 4.1-318. Violations by armed person; penalty.

No person shall unlawfully manufacture, transport or sell any alcoholic beverages, and at the time of the unlawful manufacturing, transporting, or selling or aiding or assisting in any manner in such act, shall carry on or about his person, or have on or in any vehicle which he may be using to aid him in any such purpose, or have in his possession, actual or constructive, at or within 100 yards of any place where any such alcoholic beverages are being unlawfully manufactured, transported or sold, any dangerous weapon as described in § 18.2-308.

Any person convicted of a violation of this section shall be guilty of a Class 6 felony.

Code 1950, § 4-83; 1993, c. 866.

§ 4.1-319. Disobeying subpoena; hindering conduct of hearing; penalty.

No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board member, or agent authorized by the Board to issue such subpoena or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the Board, any Board member, or agent authorized by the Board to hold and conduct such hearing.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-70; 1993, c. 866.

§ 4.1-320. Illegal advertising; penalty; exception.

A. Except in accordance with this subtitle and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale value of less than $100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and

uniforms of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events; or (vii) the sponsorship of an entertainment or cultural event.

Code 1950, § 4-69; 1978, c. 630; 1979, c. 196; 1980, c. 407; 1993, c. 866; 1995, c. 222; 2009, c. 322; 2011, c. 728; 2012, cc. 760, 818.

§ 4.1-321. Delivery of alcoholic beverages to prisoners in jail prohibited; penalty.

No person shall deliver, or cause to be delivered, to any prisoner in any local correctional facility, any alcoholic beverage.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-93; 1993, c. 866.

§ 4.1-322. Possession or consumption of alcoholic beverages by interdicted persons; penalty.

No person who has been interdicted pursuant to § 4.1-333 or § 4.1-334 shall possess any alcoholic beverages, except those acquired in accordance with subdivisions 1 through 5 of § 4.1-200, nor be drunk in public in violation of § 18.2-388.

Any interdicted person found to be in violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-52; 1954, c. 484; 1982, c. 66; 1993, c. 866; 1996, c. 717.

§ 4.1-323. Attempts; aiding or abetting; penalty.

No person shall attempt to do any of the things prohibited by this subtitle or to aid or abet another in doing, or attempting to do, any of the things prohibited by this subtitle.

On an indictment, information or warrant for the violation of this subtitle, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

Code 1950, § 4-87; 1993, c. 866.

Article 2. Prohibited Practices By Licensees

§ 4.1-324. Illegal sale or keeping of alcoholic beverages by licensees; penalty.

A. No licensee or any agent or employee of such licensee shall:

1. Sell any alcoholic beverages of a kind other than that which such license or this subtitle authorizes him to sell;

2. Sell beer to which wine, spirits or alcohol has been added, except that a mixed beverage licensee may combine wine or spirits, or both, with beer pursuant to a patron's order;

3. Sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under Board regulations, except that a mixed beverage licensee may (i) make sangria that contains brandy, triple sec, or other similar spirits and (ii) combine beer or spirits, or both, with wine pursuant to a patron's order;

4. Sell alcoholic beverages of a kind which such license or this subtitle authorizes him to sell, but to any person other than to those to whom such license or this subtitle authorizes him to sell;

5. Sell alcoholic beverages which such license or this subtitle authorizes him to sell, but in any place or in any manner other than such license or this subtitle authorizes him to sell;

6. Sell any alcoholic beverages when forbidden by this subtitle;

7. Keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this subtitle;

8. Sell any beer to a retail licensee, except for cash, if the seller holds a brewery, bottler's or wholesale beer license;

9. Sell any beer on draft and fail to display to customers the brand of beer sold or misrepresent the brand of any beer sold;

10. Sell any wine for delivery within the Commonwealth to a retail licensee, except for cash, if the seller holds a wholesale wine or farm winery license;

11. Keep or allow to be kept or sell any vaporized form of an alcoholic beverage produced by an alcohol vaporizing device;

12. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except: (i) for a frozen alcoholic beverage; and (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; or

13. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. Neither this section nor any Board regulation shall prohibit an on-premises restaurant licensee

from using alcoholic beverages that the licensee otherwise is authorized to purchase and possess for the purposes of preparing and selling for on-premises consumption food products with a final alcohol content of more than one-half of one percent by volume, as long as such food products are sold to and consumed by persons who are 21 years of age or older.

Code 1950, § 4-60; 1970, c. 360; 1974, c. 460; 1984, c. 603; 1993, c. 866; 1998, c. 238; 2006, c. 714; 2008, cc. 513, 629, 875.

§ 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this subtitle;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark, or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark, or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance, or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision A 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-206.3.

The provisions of this subdivision shall not apply to the delivery of:

a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises, except for the premises of a mixed beverage casino licensee, a slot machine or any prohibited gambling or gaming device, machine, or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection C of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; (v) by a mixed beverage casino licensee to a patron of such licensee in accordance with the provisions of subdivision A 15 of §

4.1-206.3; or (vi) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

1968, c. 7, § 4-98.10; 1970, c. 120; 1974, c. 548; 1975, c. 483; 1976, cc. 750, 768; 1978, c. 69; 1979, c. 227; 1982, c. 316; 1983, c. 608; 1993, c. 866; 2000, c. 780; 2002, c. 105; 2003, c. 856; 2004, c. 913; 2006, cc. 256, 826; 2008, cc. 513, 629, 794, 875; 2009, cc. 20, 509; 2010, c. 481; 2013, c. 661; 2015, cc. 38, 404, 604, 730; 2017, c. 154; 2020, cc. 1113, 1114; 2022, cc. 589, 590; 2023, cc. 213, 214, 774.

§ 4.1-325.01. Combined licenses for same premises.

On and after July 1, 2015, any licensee of the Board that holds both a mixed beverage restaurant license and a mixed beverage caterer's license for the same business premises may, upon request in writing to the Board, be granted a combined mixed beverage restaurant and caterer's license for the same business premises. The Board may require such licensee to surrender the previously granted mixed beverage restaurant license and mixed beverage caterer's license for the same licensed location. No additional license fee shall be assessed for this change.

2015, c. 404.

§ 4.1-325.1. Falsifying application; penalty.

It shall be unlawful for any applicant for a banquet, special events, or mixed beverage special events license pursuant to § 4.1-206.3 to knowingly make a false statement in order to secure a license or to alter, change, borrow, or lend or attempt to use, borrow, or lend a license. Any person violating this provision shall be guilty of a Class 3 misdemeanor.

2002, c. 104; 2020, cc. 1113, 1114.

§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative

of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision A 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection C of § 4.1-209; (iv) pursuant to subdivision A 10 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this subtitle on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed $500.

2002, c. 105; 2003, c. 856; 2006, cc. 256, 826; 2013, c. 661; 2015, cc. 404, 604; 2017, c. 154; 2020, cc. 1113, 1114; 2023, cc. 213, 214, 774.

§ 4.1-326. Sale of; purchase for resale; wine or beer from a person without a license; penalty.

No licensee, other than a common carrier operating in interstate or foreign commerce, licensed to sell wine or beer at retail shall purchase for resale or sell any wine or beer purchased from anyone other than a wholesale wine or wholesale beer licensee.

Nothing in this section shall prohibit the holder of a retail license issued pursuant to subdivision A 5 of § 4.1-201 from the purchase or sale of wine or beer from the winery or brewery located on or contiguous to the licensed retail premises.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, §§ 4-64, 4-66; 1984, c. 200; 1988, c. 261; 1993, c. 866; 2015, c. 412.

§ 4.1-327. Prohibiting transfer of wine or beer by licensees; penalty.

A. No retail licensee, except a retail on-premises wine and beer licensee, shall transfer any wine or beer from one licensed place of business to another licensed place of business whether such places of business are under the same ownership or not.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

1954, c. 338, § 4-34.1; 1993, c. 866; 2020, cc. 1113, 1114.

§ 4.1-328. Prohibited trade practices; penalty.

A. No person subject to the jurisdiction of the Board shall violate, attempt to violate, solicit another person to violate or consent to any violation of § 4.1-216 or 4.1-216.1, or regulations adopted pursuant to subdivision B 3 of § 4.1-111.

B. Any person found by the Board to have committed a violation of this section shall be subject to a civil penalty as provided in § 4.1-227.

1989, c. 528, § 4-79.1; 1992, c. 349; 1993, c. 866; 2007, c. 494.

§ 4.1-329. Illegal advertising materials; penalty.

No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent to, any manufacturer, as defined in § 4.1-216.1, or any wholesale licensee selling, renting, lending, buying for or giving to any person any advertising materials or decorations under circumstances prohibited by this subtitle or Board regulations.

Any person found by the Board to have violated this section shall be subject to a civil penalty as provided in § 4.1-227.

1981, c. 574, § 4-69.2; 1993, c. 866; 2007, c. 494.

§ 4.1-330. Solicitation by persons interested in manufacture, etc., of alcoholic beverages; penalty.

A. No person having any interest, direct or indirect, in the manufacture, distribution, or sale of spirits or other alcoholic beverages shall, without a permit granted by the Board and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a mixed beverage licensee; (ii) any agent, servant, or employee of such licensee; or (iii) any person connected with the licensee in any capacity whatsoever in his licensed business, to sell or offer for sale the particular spirits or other alcoholic beverage in which such person may be so interested.

The Board, upon proof of any solicitation in violation of this subsection, may suspend or terminate the sale through government stores or its purchase of the brand of spirits or other alcoholic beverage which was the subject matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate the sale through such stores or its purchase of all brands of spirits or other alcoholic beverages manufactured or distributed by either the employer or principal of such solicitor, the broker, or by the owner of the brand of spirits unlawfully solicited or promoted. The Board may impose a civil penalty not to exceed $250,000 in lieu of such suspension or termination of sales through government stores or purchases by the Board or portion thereof, or both.

Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

B. No mixed beverage licensee or any agent, servant, or employee of such licensee, or any person connected with the licensee in any capacity whatsoever in his licensed business shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a violation of subsection A.

The Board may suspend or revoke the license granted to such licensee, or may impose a civil penalty not to exceed $25,000 in lieu of such suspension or any portion thereof, or both.

Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

1968, c. 7, § 4-98.16; 1988, c. 786; 1990, c. 442; 1993, c. 866.

§ 4.1-331. Failure to pay tax or to deliver, keep and preserve records and accounts, or to allow examination and inspection; penalty.

No licensee shall fail or refuse to (i) pay any tax provided for in § 4.1-234 or § 4.1-236; (ii) deliver, keep and preserve such records, invoices and accounts as are required by § 4.1-204 or Board regulation; or (iii) allow such records, invoices and accounts or his place of business to be examined and inspected in accordance with § 4.1-204.

Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 4-65; 1988, c. 261, § 4-136; 1993, c. 866.

§ 4.1-332. Nonpayment of excise tax on beer, wine coolers, and wine; additional penalties.

A. No person shall sell (i) beer or wine coolers to retailers or consumers without paying the excise tax imposed by § 4.1-236 or (ii) wine to retailers or consumers without paying the excise tax imposed by subsection A of § 4.1-234. No retailer shall purchase, receive, transport, store or sell any beer, wine coolers, or wine on which such retailer has reason to know such tax has not been paid and may not be paid.

Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.

B. In addition to subsection A, on each manufacturer, bottler or wholesaler who fails to make any return and pay the full amount of the tax required by § 4.1-236 or subsection A of § 4.1-234, as applicable, there shall be imposed a civil penalty to be added to the tax in the amount of five percent of the proper tax due if the failure is for not more than thirty days, with an additional five percent for each additional thirty days, or fraction thereof, during which the failure continues. Such civil penalty shall not exceed twenty-five percent in the aggregate. In the case of a false or fraudulent return, where willful intent exists to defraud the Commonwealth of any excise tax due on beer, wine coolers, or wine, a civil penalty of fifty percent of the amount of the proper tax due shall be assessed. All penalties and interest shall be payable to the Board and if not so paid shall be collectible in the same manner as if they were a part of the tax imposed.

C. After reasonable notice to the manufacturer, bottler, wholesaler or retailer, the Board may suspend or revoke the license of the manufacturer, bottler, wholesaler or retailer who has failed to make any return or to pay the full amount of the excise tax.

1988, c. 261, §§ 4-139, 4-140; 1993, c. 866; 2018, cc. 405, 406.

Article 3. Procedural Matters

§ 4.1-333. Interdiction of intoxicated driver.

A. When after a hearing upon due notice it appears to the satisfaction of the circuit court of any county or city that any person, residing within such county or city, has been convicted of driving any automobile, truck, motorcycle, engine, or train while intoxicated, the court may enter an order of interdiction prohibiting the sale of alcoholic beverages to such person until further ordered. The court entering any such order shall file a copy of the order with the Board.

B. The court entering any order of interdiction may alter, amend, or cancel such order as it deems proper. A copy of any alteration, amendment, or cancellation shall be filed with the Board.

Code 1950, § 4-51; 1956, c. 53; 1982, c. 66; 1993, c. 866; 2020, c. 150.

§ 4.1-334. Interdiction for illegal manufacture, possession, transportation or sale of alcoholic beverages.

When any person has been found guilty of the illegal manufacture, possession, transportation, or sale of alcoholic beverages or maintaining a common nuisance as defined in § 4.1-317, the court may without further notice or additional hearing enter an order of interdiction prohibiting the sale of alcoholic beverages to such person for one year from the date of the entry of the order, and thereafter if further ordered.

Code 1950, § 4-52; 1954, c. 484; 1982, c. 66; 1993, c. 866.

§ 4.1-335. Enjoining nuisances.

A. In addition to the penalties imposed by § 4.1-317, the Board, its special agents, the attorney for the Commonwealth, or any citizen of the county, city, or town where a common nuisance as defined in § 4.1-317 exists may maintain a suit in equity in the name of the Commonwealth to enjoin the common nuisance.

B. The courts of equity shall have jurisdiction, and in every case where the bill charges, on the knowledge or belief of the complainant, and is sworn to by two reputable citizens, that alcoholic beverages are manufactured, stored, sold, dispensed, given away, or used in such house, building or other place described in § 4.1-317 contrary to the laws of the Commonwealth, an injunction shall be granted as soon as the bill is presented to the court. The injunction shall enjoin and restrain the owners, tenants, their agents, employees, servants, and any person connected with such house, building or other place, and all persons whomsoever from manufacturing, storing, selling, dispensing, giving away, or using alcoholic beverages on such premises. The injunction shall also restrain all persons from removing any alcoholic beverage then on such premises until the further order of the court. If the court is satisfied that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such place for a period of time as the court deems proper. The injunction may be dissolved if a proper case is shown for dissolution.

Code 1950, § 4-82; 1993, c. 866.

§ 4.1-336. Contraband beverages and other articles subject to forfeiture.

All stills and distilling apparatus and materials for the manufacture of alcoholic beverages, all alcoholic beverages and materials used in their manufacture, all containers in which alcoholic

beverages may be found, which are kept, stored, possessed, or in any manner used in violation of the provisions of this subtitle, and any dangerous weapons as described in § 18.2-308, which may be used, or which may be found upon the person or in any vehicle which such person is using, to aid such person in the unlawful manufacture, transportation or sale of alcoholic beverages, or found in the possession of such person, or any horse, mule or other beast of burden, any wagon, automobile, truck or vehicle of any nature whatsoever which is found in the immediate vicinity of any place where alcoholic beverages are being unlawfully manufactured and which such animal or vehicle is being used to aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the Commonwealth.

Proceedings for the confiscation of the above property shall be in accordance with § 4.1-338 for all such property except motor vehicles which proceedings shall be in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

Code 1950, § 4-53; 1954, c. 484; 1993, c. 866; 2012, cc. 283, 756.

§ 4.1-337. Search warrants.

A. If complaint on oath is made that alcoholic beverages are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house, or other place, in violation of law, the judge, magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or other place for alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of the Commonwealth pertaining to search warrants.

B. Warrants issued under this subtitle for the search of any automobile, boat, conveyance or vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or not, for alcoholic beverages, may be executed in any part of the Commonwealth where they are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to be transported contrary to law.

Code 1950, § 4-54; 1993, c. 866.

§ 4.1-338. Confiscation proceedings; disposition of forfeited articles.

A. All proceedings for the confiscation of articles, except motor vehicles, declared contraband and forfeited to the Commonwealth under this chapter shall be as provided in this section.

B. Production of seized property. -- Whenever any article declared contraband under the provisions of this subtitle and required to be forfeited to the Commonwealth has been seized, with or without a warrant, by any officer charged with the enforcement of this subtitle, he shall produce the contraband article and any person in whose possession it was found. In those cases where no person is found in possession of such articles the return shall so state and a copy of the warrant shall be posted on the door of the buildings or room where the articles were found, or if there is no door, then in any conspicuous place upon the premises.

In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling

apparatus, for any offense involving their forfeiture, where it is impracticable to remove such distilling apparatus to a place of safe storage from the place where seized, the seizing officer may destroy such apparatus only as necessary to prevent use of all or any part thereof for the purpose of distilling. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, an estimate of the fair cash value of the apparatus destroyed, and the materials remaining after such destruction. The report shall include a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the distilling apparatus was set up for use, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove such apparatus to a place of safe storage.

In case of seizure of any quantity of mash, or of alcoholic beverages on which the tax imposed by the laws of the United States has not been paid, for any offense involving forfeiture of the same, the seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of unlawful distillation of spirits or any other violation of this subtitle. The destruction shall be in the presence of at least one credible witness, and such witness shall join the officer in a sworn report of the seizure and destruction, to be made to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure and destruction, and a statement that, from facts within their own knowledge, the seizing officer and witness have no doubt whatever that the mash was intended for use in the unlawful distillation of spirits, or that the alcoholic beverages were intended for use in violation of this subtitle.

C. Hearing and determination. -- Upon the return of the warrant as provided in this section, the court shall fix a time not less than ten days, unless waived by the accused in writing, and not more than thirty days thereafter, for the hearing on such return to determine whether or not the articles seized, or any part thereof, were used or in any manner kept, stored or possessed in violation of this subtitle.

At such hearing if no claimant appears, the court shall declare the articles seized forfeited to the Commonwealth and, if such articles are not necessary as evidence in any pending prosecution, shall turn them over to the Board. Any person claiming an interest in any of the articles seized may appear at the hearing and file a written claim setting forth particularly the character and extent of his interest. The court shall certify the warrant and the articles seized along with any claim filed to the circuit court to hear and determine the validity of such claim.

If the evidence warrants, the court shall enter a judgment of forfeiture and order the articles seized to be turned over to the Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to any prosecution under any other provision of this subtitle.

D. Disposition of forfeited beverages and other articles. -- Any articles forfeited to the Commonwealth and turned over to the Board in accordance with this section shall be destroyed or sold by the Board as it deems proper. The net proceeds from such sales shall be paid into the Literary Fund. If the Board believes that any alcoholic beverages forfeited to the Commonwealth and turned over to the Board in accordance with this section cannot be sold and should not be destroyed, it may give such alcoholic beverages for medicinal purposes to any institution in the Commonwealth regularly conducted as a hospital, nursing home or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, to supply the needs of such institution for alcoholic beverages for such purposes, provided that (i) the State Health Commissioner has issued a certificate stating that

such institution has need for such alcoholic beverages and (ii) preference is accorded by the Board to institutions supported either in whole or in part by public funds. A record shall be made showing the amount issued in each case, to whom issued and the date when issued, and shall be kept in the offices of the State Health Commissioner and the Board. No charge shall be made to any patient for the alcoholic beverages supplied to him where they have been received from the Board pursuant to this section. Such alcoholic beverages shall be administered only upon approval of the patient's physician.

If the Board believes that any foodstuffs forfeited to the Commonwealth and turned over to the Board in accordance with this section are usable, should not be destroyed and cannot be sold or whose sale would be impractical, it may give such foodstuffs to any institution in the Commonwealth and shall prefer a gift to the local jail or other local correctional facility in the jurisdiction where seizure took place. A record shall be made showing the nature of the foodstuffs and amount given, to whom given and the date when given, and shall be kept in the offices of the Board.

Code 1950, § 4-55; 1954, c. 484; 1958, c. 194; 1976, c. 37; 1993, c. 866; 1995, c. 196.

§ 4.1-339. Search and seizure of conveyances or vehicles used in violation of law; arrests.

A. When any officer charged with the enforcement of the alcoholic beverage control laws of the Commonwealth has reason to believe that alcoholic beverages illegally acquired, or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on water (except a conveyance or vehicle owned or operated by a railroad, express, sleeping or parlor car or steamboat company, other than barges, tugs or small craft), he shall obtain a search warrant and search such conveyance or vehicle. If illegally acquired alcoholic beverages or alcoholic beverages being illegally transported in amounts in excess of one quart or one liter if in a metric-sized container are found, the officer shall seize the alcoholic beverages, seize and take possession of such conveyance or vehicle, and deliver them to the chief law-enforcement officer of the locality in which such seizure was made, taking his receipt therefor in duplicate.

B. The officer making such seizure shall also arrest all persons found in charge of such conveyance or vehicle and shall forthwith report in writing such seizure and arrest to the attorney for the Commonwealth for the county or city in which seizure and arrest were made.

Code 1950, § 4-56; 1954, c. 504; 1968, c. 763; 1971, Ex. Sess., c. 155; 1973, c. 16; 1978, cc. 434, 436; 1981, c. 365; 1983, c. 271; 1984, c. 52; 1993, c. 866.

§ 4.1-340. Repealed.

Repealed by Acts 2012, cc. 283 and 756, cl. 2.

§ 4.1-346. Contraband beverages.

Alcoholic beverages seized pursuant to § 4.1-339 shall be deemed contraband as provided in § 4.1-336 and disposed of accordingly. Failure to maintain on a conveyance or vehicle a permit or other indicia of permission issued by the Board authorizing the transportation of alcoholic beverages within, into or through the Commonwealth when other Board regulations applicable to such transportation have been complied with shall not be cause for deeming such alcoholic beverages contraband.

Code 1950, § 4-56; 1954, c. 504; 1968, c. 763; 1971, Ex. Sess., c. 155; 1973, c. 16; 1978, cc. 434, 436;

1981, c. 365; 1983, c. 271; 1984, c. 52; 1993, c. 866.

§ 4.1-347. Repealed.

Repealed by Acts 2012, cc. 283 and 756, cl. 2.

§ 4.1-348. Beverages not licensed under this subtitle.

The provisions of §§ 4.1-339 through 4.1-348 shall not apply to alcoholic beverages which may be manufactured and sold without any license under the provisions of this subtitle.

Code 1950, § 4-56; 1954, c. 504; 1968, c. 763; 1971, Ex. Sess., c. 155; 1973, c. 16; 1978, cc. 434, 436; 1981, c. 365; 1983, c. 271; 1984, c. 52; 1993, c. 866.

§ 4.1-349. Punishment for violations of title or regulations; bond.

A. Any person convicted of a misdemeanor under the provisions of this subtitle without specification as to the class of offense or penalty, or convicted of violating any other provision thereof, or convicted of violating any Board regulation, shall be guilty of a Class 1 misdemeanor.

B. In addition to the penalties imposed by this subtitle for violations, any court before whom any person is convicted of a violation of any provision of this subtitle may require such defendant to execute bond, with approved security, in the penalty of not more than $1,000, with the condition that the defendant will not violate any of the provisions of this subtitle for the term of one year. If any such bond is required and is not given, the defendant shall be committed to jail until it is given, or until he is discharged by the court, provided he shall not be confined for a period longer than six months. If any such bond required by a court is not given during the term of the court by which conviction is had, it may be given before any judge or before the clerk of such court.

C. The provisions of this subtitle shall not prevent the Board from suspending, revoking or refusing to continue the license of any person convicted of a violation of any provision of this subtitle.

D. No court shall hear such a case unless the respective attorney for the Commonwealth or his assistant has been notified that such a case is pending.

Code 1950, § 4-92; 1984, c. 603; 1993, c. 866.

§ 4.1-350. Witness not excused from testifying because of self-incrimination.

No person shall be excused from testifying for the Commonwealth as to any offense committed by another under this subtitle by reason of his testimony tending to incriminate him. The testimony given by such person on behalf of the Commonwealth when called as a witness for the prosecution shall not be used against him and he shall not be prosecuted for the offense to which he testifies.

Code 1950, § 4-94; 1993, c. 866.

§ 4.1-351. Previous convictions.

In any indictment, information or warrant charging any person with a violation of any provision of this subtitle, it may be alleged and evidence may be introduced at the trial of such person to prove

that such person has been previously convicted of a violation of this subtitle.

Code 1950, § 4-91; 1993, c. 866.

§ 4.1-352. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.

The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for violations of this subtitle and all controversies in any judicial proceedings touching the mixture analyzed by him. On motion of the accused or any party in interest, the court may require the forensic scientist making the analysis to appear as a witness and be subject to cross-examination, provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

Code 1950, § 4-90; 1972, c. 741; 1981, c. 410; 1993, c. 866; 2003, c. 130; 2005, cc. 868, 881.

§ 4.1-353. Label on sealed container prima facie evidence of alcoholic content.

In any prosecution for violations of this subtitle, where a sealed container is labeled as containing an alcoholic beverage as defined herein, such labeling shall be prima facie evidence of the alcoholic content of the container. Nothing shall preclude the introduction of other relevant evidence to establish the alcoholic content of a container, whether sealed or not.

1962, c. 616, § 4-90.1; 1993, cc. 169, 866; 1997, c. 418.

§ 4.1-354. No recovery for alcoholic beverages illegally sold.

No action to recover the price of any alcoholic beverages sold in contravention of this subtitle may be maintained.

Code 1950, § 4-88; 1993, c. 866.

Chapter 4. Wine Franchise Act.

§ 4.1-400. Construction and purpose.

This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

The underlying purposes and policies of the chapter are:

1. To promote the interests of the parties and the public in fair business relations between wine wholesalers and wineries, and in the continuation of wine wholesalerships on a fair basis;

2. To preserve and protect the existing three-tier system for the distribution of wine, which system is deemed material to the proper regulation by the Board of the distribution of alcoholic beverages;

3. To prohibit unfair treatment of wine wholesalers by wineries, promote compliance with valid franchise agreements, and define certain rights and remedies of wineries in regard to cancellation of franchise agreements with wholesalers;

4. To establish conditions for creation and continuation of all wholesale wine distributorships, including original agreements and any renewals or amendments thereto, to the full extent consistent with the laws and Constitutions of the Commonwealth and the United States; and

5. To provide for a system of designation and registration of franchise agreements between wineries and wholesalers with the Board as an aid to Board regulation of the distribution of wine by wholesalers.

Code 1950, § 4-118.22; 1985, c. 542, § 4-118.42; 1989, c. 10; 1993, c. 866.

§ 4.1-401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or indefinite duration, between a winery and wine wholesaler pursuant to which the wholesaler has been authorized to distribute one or more of the winery's brands of wine. The doing or accomplishment of any of the following acts shall constitute prima facie evidence of an agreement within the meaning of this definition:

1. The shipment, preparation for shipment or acceptance of any order by a winery for any wine to a wine wholesaler within the Commonwealth.

2. The payment by a wine wholesaler and the acceptance of payment by any winery for the shipment of an order of wine intended for sale in the Commonwealth.

"Brand" means any word, name, group of letters, symbol or combination thereof adopted and used by a winery to identify a specific wine product and to distinguish that product from other wine produced or marketed by that winery or other wineries. The use of general corporate logos or symbols or the use of advertising messages, whether appearing on the product packaging or elsewhere, shall not be considered to be a brand, brand extension, or part thereof as these terms are used in this chapter.

"Brand extension" and "extension of a brand" mean any brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same winery and which relies to a significant extent on the good will associated with such preexisting brand.

"Dual distributorships" means the existence of agreements between a single winery and more than one wholesaler, each selling a different brand, in a given territory as the result of a purchase of another winery.

"Nonsurviving winery" means any winery which is purchased by another winery as provided in § 4.1-405 and, as a result, ceases to exist as an independent legal entity.

"Person" means a natural person, corporation, partnership, trust, agency or other entity as well as the individual officers, directors or other persons in active control of the activities of each such entity. Person also includes heirs, assigns, personal representatives and conservators.

"Purchase" includes, but is not limited to, the sale of stock, sale of assets, merger, lease, transfer or consolidation.

"Surviving winery" means the winery which purchases a nonsurviving winery as provided in § 4.1-405.

"Territory" or "sales territory" means the area of primary sales responsibility within the Commonwealth expressly or implicitly designated by any agreement between any wine wholesaler and winery for the brand or brands of any winery.

"Wine wholesaler" means any wholesale wine licensee offering wine for sale or resale to retailers or other wine wholesalers without regard to whether the business of the person is conducted under the terms of an agreement with a licensed winery.

"Winery" means every person, including any authorized representative of such person pursuant to § 4.1-218, which enters into an agreement with any Virginia wholesale wine licensee and (i) is licensed as a winery or is licensed as a Virginia farm winery, (ii) is licensed as a wine importer and is not simultaneously licensed as a wine wholesaler, (iii) manufactures or sells any wine products, whether licensed in the Commonwealth or not, or (iv) without regard to whether such person is licensed in the Commonwealth, has title to any wine products, excluding Virginia wholesale licensees and retail licensees, and has the manufacturer's authorization to market such products under its own brand or the manufacturer's brand.

Code 1950, §§ 4-118.21, 4-118.23; 1985, c. 542, § 4-118.43; 1986, c. 102; 1989, c. 10; 1991, c. 628; 1993, c. 866; 1997, c. 801.

§ 4.1-402. Applicability.

This chapter shall apply to all agreements in effect on or after February 18, 1989, and any renewal or amendment of such agreements. For the purposes of this chapter, an agreement shall be deemed to be in effect or renewed or continued in effect when any of the following acts occur after February 18, 1989:

1. The shipment, preparation for shipment or acceptance of any order by a winery or its agents for any wine to a wine wholesaler within the Commonwealth; and

2. The payment by a wine wholesaler and the acceptance of payment by any winery or its agents for the shipment of an order of wine intended for sale in the Commonwealth.

Code 1950, § 4-118.38; 1985, c. 542, § 4-118.58; 1989, c. 10; 1993, c. 866.

§ 4.1-403. No inducement or coercion.

No winery shall:

1. Induce or coerce, or attempt to induce or coerce, any wine wholesaler to accept delivery of any wine or any other commodity which has not been ordered by the wine wholesaler.

2. Induce or coerce, or attempt to induce or coerce, any wine wholesaler to do any illegal act by any means including, but not limited to, threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a winery and wine wholesaler.

3. Require a wine wholesaler to assent to any condition, stipulation or provision limiting the wholesaler in his right to sell the product of any other winery anywhere in the Commonwealth.

Code 1950, § 4-118.24; 1985, c. 542, § 4-118.44; 1989, c. 10; 1993, c. 866.

§ 4.1-404. Sales territory.

Each winery which enters into an agreement with a wine wholesaler shall designate a sales territory as the primary area of responsibility of that wholesaler which is applicable to the agreement. No winery shall enter into any agreement with more than one wholesaler for the purpose of establishing more than one agreement for its brands of wine in any territory. However, the existence of more than one such agreement as a result of a sale of a winery as contemplated by § 4.1-405 shall not be prohibited. Notwithstanding any other provision in this chapter, a winery may enter into agreements with more than one wholesaler in a sales territory for new brands which are not clearly extensions of existing brands. Territories served by a wine wholesaler on February 18, 1989, shall be deemed designated sales territories within the meaning of this section. Each winery shall notify the Board in writing of all designations of sales territories, the identity of the wholesaler appointed to serve such territory and a statement of any variations which exist in the designated territory in regard to a particular brand. Redesignations shall be reported to the Board within 30 days.

Code 1950, § 4-118.25; 1985, c. 542, § 4-118.45; 1989, c. 10; 1993, c. 866; 2018, cc. 168, 169.

§ 4.1-405. Sale of winery.

A. Except for discontinuance of a brand or for good cause as provided in § 4.1-406, the purchaser of a winery shall become obligated to all of the terms and conditions of the selling winery's agreements with wholesalers in effect on the date of purchase. The purchaser of a brand from a winery shall become obligated to all of the terms and conditions of the selling winery's agreements with wholesalers concerning that brand. Whenever such a purchase of a brand results in the creation of a dual distributorship, the provisions of subdivisions 1 and 2 of subsection B will determine the distribution rights to such brand or any extension thereof. For the limited purpose of making such determination, the winery selling the brand shall be a nonsurviving winery and the purchaser shall be a surviving winery.

B. For purposes of this section, when a purchase of a winery by or on behalf of another winery causes the selling winery to cease to exist as an independent legal entity, the selling winery shall be regarded as a nonsurviving winery, and the winery on whose behalf the purchase was made shall be regarded as a surviving winery. In any case in which such a purchase of a winery by or on behalf of another winery has created or will create a dual distributorship, the following rules shall apply in order to determine the allocation of any brands which are first marketed in the Commonwealth by the surviving winery after February 18, 1989:

1. If the surviving winery distributes in the Commonwealth brands of the nonsurviving winery which that winery marketed anywhere prior to the purchase, these brands shall be distributed through any wholesalers who were distributors in the Commonwealth for the nonsurviving winery. If the nonsurviving winery had no distributors in the Commonwealth, then the surviving winery's brands, as well as the brands of the surviving winery which were marketed anywhere prior to the purchase, shall be distributed through those wine wholesalers who were wholesalers of the surviving winery prior to the purchase.

2. If the surviving winery decides to market in the Commonwealth a new brand which was not marketed anywhere prior to the purchase, but which is clearly an extension of a brand which did exist

prior to the purchase, the new brand shall be distributed through those wholesalers who distributed the brand of which the new brand is an extension.

3. If the surviving winery decides to introduce in the Commonwealth a new brand which was not marketed anywhere prior to the purchase and which is not a brand extension, the new brand may be distributed through any distributor.

Code 1950, § 4-118.26; 1985, c. 542, § 4-118.46; 1989, c. 10; 1993, c. 866.

§ 4.1-406. Cancellation.

Notwithstanding the terms, provisions or conditions of any agreement, no winery shall unilaterally amend, cancel, terminate or refuse to continue to renew any agreement, or unilaterally cause a wholesaler to resign from an agreement, unless the winery has first complied with § 4.1-407 and good cause exists for amendment, termination, cancellation, nonrenewal, noncontinuance or causing a resignation. Good cause shall not include the sale or purchase of a winery. Good cause shall include, but is not limited to the following:

1. Revocation of the wholesaler's license to do business in the Commonwealth;

2. Bankruptcy or receivership of the wholesaler;

3. Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, other than the creation of a security interest in the assets of a wholesaler for the purpose of securing financing in the ordinary course of business; or

4. Failure by the wholesaler to substantially comply, without reasonable cause or justification, with any reasonable and material requirement imposed upon him in writing by the winery including, but not limited to, a substantial failure by a wine wholesaler to (i) maintain a sales volume or trend of his winery's brand or brands comparable to that of other distributors of that brand in the Commonwealth similarly situated or (ii) render services comparable in quality, quantity or volume to the services rendered by other wholesalers of the same brand or brands within the Commonwealth similarly situated. In any determination as to whether a wholesaler has failed to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him by the winery, consideration shall be given to the relative size, population, geographical location, number of retail outlets and demand for the products applicable to the territory of the wholesaler in question and to comparable territories.

Nothing in this section shall be construed to prohibit a winery from proposing or effecting an amendment to a contract with a wine wholesaler in the Commonwealth provided that such amendment is not inconsistent with this chapter.

Good cause shall not be construed to exist without a finding of a material deficiency for which the wholesaler is responsible in any case in which good cause is alleged to exist based on circumstances not specifically set forth in subdivisions 1 through 4 of this section.

Code 1950, § 4-118.27; 1985, c. 542, § 4-118.47; 1987, c. 246; 1989, c. 10; 1993, c. 866; 1996, c. 3.

§ 4.1-407. Notice of intent to terminate.

A. Except as provided in subsection F, a winery shall provide a wholesaler at least ninety days' prior written notice of any intention to amend, terminate, cancel or not renew any agreement. The notice, a copy of which shall be mailed at the same time to the Board, shall state all the reasons for the intended amendment, termination, cancellation or nonrenewal. After providing such notice, a winery may immediately apply to the Board for a determination that it is likely to incur substantial hardship if required to comply with the ninety-day notice requirement. If the Board makes such a determination, the ninety-day notice requirement shall be reduced to thirty days. In this event, the thirty-day notice period shall be included in the sixty-day opportunity to cure period provided in subsection B.

B. Where the reason relates to a condition which may be rectified by action of the wholesaler, he shall have sixty days in which to take such action and, within the sixty-day period, shall give written notice to the winery if and when such action is taken. A copy of the notice shall be mailed at the same time to the Board. If such condition has been rectified by action of the wholesaler, then the proposed amendment, termination, cancellation or nonrenewal shall be void and without legal effect. However, where the winery contends that action on the part of the wholesaler has not rectified one or more of such conditions, the winery must within fifteen days after the expiration of the sixty-day period request a hearing before the Board to determine if the condition has been rectified by action of the wholesaler.

C. Where the reason relates to a condition which may not be rectified by the wholesaler within the sixty-day period, the wholesaler may request a hearing before the Board to determine if there is good cause for the amendment, termination, cancellation or nonrenewal of the agreement.

D. Upon request in writing within the ninety-day period provided in subsection A from such winery or wholesaler for a hearing, the Board shall, after notice and hearing, determine if the action of the wholesaler has rectified the condition or, as the case may be, if good cause exists for the amendment, termination, cancellation or nonrenewal of the agreement.

E. In any proceeding brought pursuant to this section in which the existence of good cause is an issue, the winery shall have the burden of proving the existence of good cause. Where a petition is made to the Board for a determination, the agreement in question shall continue in effect pending the Board's decision and any judicial review thereof, except in any case in which the Board makes a finding that there is good cause, as defined in § 4.1-406, for the amendment, termination, cancellation, or nonrenewal, in which case the winery may, unless otherwise ordered by a court of record, discontinue the agreement in question. However, where a petition is made to the Board after the agreement has been terminated in accordance with the procedures set forth in this section, the filing of the petition shall not cause the terminated agreement to be reinstated unless the terminated wholesaler's failure to petition in a timely manner was based upon reasonable reliance on representation or other inducements made by the winery.

F. No notice shall be required and an agreement may be immediately amended, terminated, cancelled or allowed to expire if the reason for the amendment, termination, cancellation or nonrenewal is:

1. The bankruptcy or receivership of the wholesaler;

2. An assignment for the benefit of creditors or similar disposition of the assets of the business, other than the creation of a security interest in the assets of a wholesaler for the purpose of securing

financing in the ordinary course of business; or

3. Revocation of the wholesaler's license.

Code 1950, § 4-118.28; 1985, c. 542, § 4-118.48; 1989, c. 10; 1993, c. 866; 1997, c. 183.

§ 4.1-408. Transfer of business.

A. No winery shall unreasonably withhold or delay consent to any transfer of the wholesaler's business or transfer of the stock or other interest in the wholesalership, whenever the wholesaler to be substituted meets the material and reasonable qualifications and standards required of its wholesalers. Whenever a transfer of a wholesaler's business occurs, the purchaser shall assume all the obligations imposed on and succeed to all the rights held by the selling wholesaler by virtue of any agreement between the selling wholesaler and one or more wineries entered into prior to the transfer.

B. Notwithstanding any provision in subsection A, no winery shall withhold consent to, or in any manner retain a right of prior approval of, the transfer of the wholesaler's business to a member or members of the wholesaler's family. However, subsequent to such transfer, the rights and obligations of the wholesalership and its owners shall in all respects be governed by the provisions of this chapter. As used in this subsection, "family" means the wholesaler's spouse, parents, siblings, children, stepchildren, and lineal descendants, including those by adoption.

Code 1950, § 4-118.29; 1985, c. 542, § 4-118.49; 1989, c. 10; 1993, c. 866.

§ 4.1-409. Remedies.

A. In addition to any other sanctions which the Board is empowered by law to impose, it may order that any act or practice constituting a violation of this chapter be ceased and, where necessary, corrective measures implemented. In addition, in any case in which a winery is found to have attempted or accomplished an amendment, termination, cancellation, or refusal to continue or renew an agreement without good cause as defined in § 4.1-406, the Board shall, upon the request of the wholesaler involved, enter an order requiring that (i) the agreement remain in effect or be reinstated or (ii) the winery pay the wholesaler reasonable compensation for the value of this agreement as determined pursuant to subsection B. Reasonable compensation shall include, but is not limited to, the following:

1. The fair market value of the assets used by the wholesaler specifically for the purpose of distributing the winery's products;

2. The cost of the wholesaler's inventory of the winery's products calculated as the sum of the net price paid by the wholesaler for the inventory;

3. The amount of any taxes paid by the wholesaler in connection with purchasing the inventory;

4. The cost of transporting the inventory from the winery to the wholesaler's warehouse, plus any handling costs; and

5. The goodwill of the wholesaler's business representing a value over and above the fair market value of the foregoing tangible assets.

B. In the event the winery and the wholesaler are unable to agree on the reasonable compensation to be paid for the value of the agreement, the matter shall be submitted to a neutral arbitrator to be selected by the parties, or if they cannot agree, a person qualified by experience to appraise the value of existing businesses shall be appointed arbitrator by the Secretary of the Board. The decision of the arbitrator shall be rendered within ninety days from the time the matter is submitted to arbitration unless the Board, for good cause shown, allows for an extension of time not to exceed thirty days, or unless the parties agree to an extension of time. All of the costs of the arbitration shall be paid one-half by the wholesaler and one-half by the winery. By entering into an agreement, the parties are deemed to have agreed to arbitration as provided in this subsection and, further, that such arbitration shall be governed by the provisions of Chapter 21 (§ 8.01-577 et seq.) of Title 8.01.

C. In addition to the foregoing remedies, in any case in which a winery is found to have violated § 4.1-407, the Board may, upon request of the wholesaler involved, order the winery to compensate the wholesaler for any loss proximately resulting from such violation, including but not limited to lost profits. Such losses shall be determined in the manner provided in subsection B and shall be calculated from the date of the violation by the winery to the date the winery initiates remedial action pursuant to Board order.

Code 1950, § 4-118.30; 1985, c. 542, § 4-118.50; 1987, c. 246; 1989, c. 10; 1993, c. 866.

§ 4.1-410. Board proceedings and appellate review.

A. The Board, upon petition by any interested party, or upon its own motion if it has reasonable grounds to believe a violation has or may have occurred, shall have the responsibility of determining whether a violation of any provision of this chapter has occurred. The Board may, if it finds that the winery or wine wholesaler has acted in bad faith in violating any provision of this chapter or in seeking relief pursuant to this chapter, award reasonable costs and attorneys' fees to the prevailing party.

B. All proceedings under this chapter and any judicial review thereof shall be held in accordance with the Virginia Administrative Process Act (§ 2.2-4000 et seq.). Notwithstanding the foregoing, the Board may adopt regulations pertaining to proceedings under this chapter, including regulations authorizing or requiring the issuance of subpoenas for the production of documents, subpoenas for the attendance of witnesses, requests for admissions, interrogatories, and depositions, not inconsistent with Part 4 of the Rules of the Supreme Court of Virginia.

C. In all proceedings under this chapter, the Board or the circuit court reviewing a Board order, for good cause, shall enter an order requiring that information relating to the sale, marketing, or manufacturing practices or processes of the winery or the wholesaler be filed with the Board or the court, as the case may be, in sealed envelopes and that the information contained therein remain available only to the winery and wholesaler on condition that such information will not be disclosed by the Board, the winery or the wholesaler, or their respective agents and employees. Upon conclusion of the proceedings under this chapter, information supplied shall be returned to the party furnishing it or, in the alternative, the Board or the court may order that such information be sealed to be opened only by order of the Board or the court.

Code 1950, § 4-118.31; 1985, c. 542, § 4-118.51; 1987, c. 139; 1989, c. 10; 1993, c. 866.

§ 4.1-411. Price of product.

No winery, whether by means of a term or condition of an agreement or otherwise, shall fix or maintain the prices at which the wholesaler shall sell any wine.

Code 1950, § 4-118.32; 1985, c. 542, § 4-118.52; 1989, c. 10; 1993, c. 866.

§ 4.1-412. Increase of prices.

No winery or wine importer shall increase the prices charged any wholesale wine licensee for wine except by written notice to the wholesaler signed by an authorized officer or agent of the winery or wine importer, which notice shall contain the amount and effective date of the increase. A copy of the notice shall be sent to the Board and shall be treated as confidential information, except in relation to enforcement proceedings for violation of this section. No increase shall take effect prior to thirty calendar days following the date on which the notice is postmarked. The Board may authorize such price increases to take effect with less than the aforesaid thirty-calendar-day notice if a winery or wine importer so requests and demonstrates good cause therefor.

Code 1950, § 4-118.33; 1985, c. 542, § 4-118.53; 1989, c. 10; 1993, c. 866.

§ 4.1-413. Retaliatory action prohibited.

A winery shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the winery with the appropriate state or federal regulatory or judicial authority. Retaliatory action shall include, but is not limited to, refusal without good cause to continue the agreement, or a material reduction in the amount and quality of services or quality of products available to the wholesaler under the agreement.

Code 1950, § 4-118.34; 1985, c. 542, § 4-118.54; 1989, c. 10; 1993, c. 866.

§ 4.1-414. Management.

No winery shall require or prohibit any change in management or personnel of any wholesaler unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the winery for its wholesalers.

Code 1950, § 4-118.35; 1985, c. 542, § 4-118.55; 1989, c. 10; 1993, c. 866.

§ 4.1-415. Discrimination prohibited.

No winery shall discriminate among its wholesalers in any business dealings including, but not limited to, the price of wine sold to the wholesaler, unless the classification among its wholesalers is based upon reasonable grounds.

Code 1950, § 4-118.36; 1985, c. 542, § 4-118.56; 1989, c. 10; 1993, c. 866.

§ 4.1-416. Waiver prohibited; conflicts of laws.

A. No winery shall require any wholesaler to waive compliance with any provision of this chapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this chapter shall limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

B. Any contract between a winery and a wine wholesaler pursuant to which the wholesaler is to market the winery's products in the Commonwealth shall be governed by the laws of the Commonwealth as the place of performance, notwithstanding the fact that such contract may have been made in another state or the fact that such contract may provide that it is to be governed by the laws of another state.

Code 1950, § 4-118.37; 1985, c. 542, § 4-118.57; 1989, c. 10; 1993, c. 866.

§ 4.1-417. Right of free association.

No winery or wholesaler shall restrict or inhibit the right of free association among wineries or wholesalers for any lawful purpose.

Code 1950, § 4-118.39; 1985, c. 542, § 4-118.59; 1989, c. 10; 1993, c. 866.

§ 4.1-418. Reasonableness and good faith.

A. Every agreement entered into under this chapter shall impose on the parties the obligation to act in good faith.

B. This chapter shall impose on every term and provision of any agreement a requirement of reasonableness. Every term or provision shall be interpreted so that the requirements or obligations imposed therein are reasonable.

Code 1950, § 4-118.40; 1985, c. 542, § 4-118.60; 1989, c. 10; 1993, c. 866.

Chapter 5. Beer Franchise Act.

§ 4.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agreement" means a commercial relationship, not required to be evidenced in writing, of definite or indefinite duration, between a brewery and beer wholesaler pursuant to which the wholesaler has been authorized to distribute one or more of the brewery's brands of beer. The doing or accomplishment of any of the following acts shall constitute prima facie evidence of an agreement within the meaning of this definition:

1. The shipment, preparation for shipment or acceptance of any order by any brewery for any beer to a beer wholesaler within the Commonwealth.

2. The payment by a beer wholesaler and the acceptance of payment by any brewery for the shipment of an order of beer intended for sale in the Commonwealth.

"Beer wholesaler," "wholesaler," "beer distributor," and "distributor" mean any wholesale beer licensee, including any successor-in-interest to such person, within the Commonwealth offering beer for sale or resale to retailers or other beer wholesalers without regard to whether the business of the person is conducted under the terms of an agreement with a licensed brewery.

"Brand" means any word, name, group of letters, symbol or combination thereof adopted and used by a brewery to identify a specific malt beverage product and to distinguish that product from other beers produced or marketed by that brewery or other breweries. The use of general corporate logos or symbols or the use of advertising messages, whether appearing on the product packaging or elsewhere, shall not be considered to be a brand, brand extension, or part thereof as these terms are used in this chapter.

"Brand extension" and "extension of a brand" mean any brand, which incorporates all or a substantial part of the unique features of a preexisting brand of the same brewery and which relies to a significant extent on the goodwill associated with such preexisting brand.

"Brewery" means every person, including any authorized representative of such person pursuant to § 4.1-218 which (i) is licensed as a brewery located within the Commonwealth, (ii) holds a beer importer's license and is not simultaneously licensed as a beer wholesaler, or (iii) manufactures any malt beverage, has title to any malt beverage products excluding licensed Virginia wholesalers and retailers or has the contractual right to distribute under its own brand any malt beverage product whether licensed in the Commonwealth or not, who enters into an agreement with any beer wholesaler licensed to do business in the Commonwealth.

"Dual distributorships" means the existence of agreements between a single brewery and more than one wholesaler in a given territory as the result of a purchase of another brewery.

"Nonsurviving brewery" means any brewery which is purchased by another brewery as provided in § 4.1-504 and, as a result, ceases to exist as an independent legal entity.

"Person" means a natural person, corporation, partnership, trust, agency, or other entity as well as the individual officers, directors or other persons in active control of the activities of each such entity. "Person" also includes heirs, assigns, personal representatives and conservators.

"Purchase" includes, but is not limited to, the sale of stock, sale of assets, merger, lease, transfer or consolidation.

"Surviving brewery" means a brewery which purchases a nonsurviving brewery as provided in § 4.1-504.

"Territory" or "sales territory" means the area of sales responsibility within the Commonwealth expressly or impliedly designated by any agreement between any beer wholesaler and brewery for the brand or brands of any brewer.

1978, c. 579, § 4-118.4; 1985, c. 549; 1987, c. 247; 1991, c. 628; 1993, c. 866; 1997, c. 801.

§ 4.1-501. Applicability.

This chapter shall apply to all agreements in effect on or after January 1, 1978.

1978, c. 579, § 4-118.18; 1993, c. 866.

§ 4.1-502. No inducement or coercion.

No brewery shall:

1. Induce or coerce, or attempt to induce or coerce, any beer wholesaler to accept delivery of any beer or any other commodity which has not been ordered by the beer wholesaler.

2. Induce or coerce, or attempt to induce or coerce, any beer wholesaler to do any illegal act by any means including, but not limited to, threatening to amend, cancel, terminate, or refuse to renew any agreement existing between a brewery and beer wholesaler.

3. Require a beer wholesaler to assent to any condition, stipulation or provision limiting the wholesaler in his right to sell the product of any other brewery anywhere in the Commonwealth.

1978, c. 579, § 4-118.5; 1993, c. 866.

§ 4.1-503. Sales territory.

Each brewery which enters into an agreement with a beer wholesaler shall designate a sales territory for that wholesaler which is applicable to the agreement. No brewery shall enter into any agreement with more than one beer wholesaler for the purpose of establishing more than one agreement for its brands of beer in any territory. However, the existence of more than one such agreement as a result of a sale of a brewery as contemplated by § 4.1-504 shall not be prohibited. Each brewery shall notify the Board in writing of all designations of sales territories, the identity of the wholesaler appointed to serve such territory and a statement of any variations which exist in such designated territory with regard to a particular brand. Redesignations shall be reported to the Board within thirty days.

1978, c. 579, § 4-118.6; 1985, c. 536; 1993, c. 866.

§ 4.1-504. Sale of brewery.

A. Except for discontinuance of a brand or for good cause as provided in § 4.1-505, the purchaser of a brewery shall become obligated to all of the terms and conditions of the selling brewery's agreements with distributors in effect on the date of purchase. The purchaser of a brand from a brewery shall become obligated to all of the terms and conditions of the selling brewery's agreement with distributors concerning that brand. Whenever such a purchase of a brand results in the creation of a dual distributorship, the provisions of subdivisions 1 and 2 of subsection B will determine the distribution rights to such brand or any extension thereof. For the limited purpose of making such determination, the brewery selling such brand shall be a nonsurviving brewery and the purchaser shall be a surviving brewery.

B. For purposes of this section, when a purchase of a brewery by or on behalf of another brewery causes the selling brewery to cease to exist as an independent legal entity, the selling brewery shall be regarded as a nonsurviving brewery and the brewery on whose behalf the purchase was made shall be regarded as a surviving brewery. The following rules shall apply in order to determine (i) the distribution rights to any brands which are first marketed in the Commonwealth by the surviving brewery on or after July 1, 1985, with respect to a dual distributorship created prior to July 1, 1985, and (ii) the distribution rights to any brands, regardless of when they were first marketed in the Commonwealth, with respect to a dual distributorship created on or after July 1, 1985:

1. If the surviving brewery distributes in the Commonwealth any brand or brands of the nonsurviving brewery which that brewery marketed in the Commonwealth at any time during the one-year period ending on the day the purchase agreement was made, these brands shall be distributed through those

beer wholesalers who were distributors in the Commonwealth for the nonsurviving brewery. Any brands which the surviving brewery had marketed in the Commonwealth prior to the purchase shall be distributed through those beer wholesalers who were wholesalers of the surviving brewery prior to the purchase.

2. If the surviving brewery decides to market in the Commonwealth a new brand which is clearly an extension of a brand already assigned to beer wholesalers in the Commonwealth, the new brand shall be distributed through those wholesalers who distribute the brand of which the new brand is an extension.

3. If the surviving brewery decides to introduce in the Commonwealth a new brand which was not marketed in the Commonwealth at any time during the one-year period ending on the date the purchase agreement was made and which is not a brand extension, the surviving brewery shall market the new brand either through a distributor of the nonsurviving brewery or through a distributor who was a distributor of the surviving brewery prior to the purchase, as the brewery may see fit in any territory.

C. Subsection B shall not apply to determine distributorship rights to any brands or brand extensions which were marketed in the Commonwealth prior to July 1, 1985, with respect to any dual distributorship created prior to July 1, 1985.

1985, c. 549, § 4-118.6:1; 1993, c. 866.

§ 4.1-505. Cancellation.

Notwithstanding the terms, provisions or conditions of any agreement, no brewery shall unilaterally amend, cancel, terminate or refuse to continue to renew any agreement, or unilaterally cause a wholesaler to resign from an agreement, unless the brewery has first complied with § 4.1-506 and good cause exists for amendment, termination, cancellation, nonrenewal, noncontinuation or causing a resignation. Good cause shall not include the sale or purchase of a brewery. Good cause shall include, but is not limited to, the following:

1. Revocation of the wholesaler's license to do business in the Commonwealth;

2. Bankruptcy or receivership of the wholesaler;

3. Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler other than the creation of a security interest in the assets of a wholesaler for the purpose of securing financing in the ordinary course of business; or

4. Failure by the wholesaler to substantially comply, without reasonable excuse or justification, with any reasonable and material requirement imposed upon him in writing by the brewery, including, but not limited to, a substantial failure by a beer wholesaler to (i) maintain a sales volume of his brewery's brand or brands, (ii) render services comparable in quality, quantity or volume to the sales volumes maintained and services rendered by other wholesalers of the same brand or brands within the Commonwealth, or (iii) failure to obtain the consent of the brewery to a transfer of a wholesaler's business unless a determination has been made by the Board pursuant to § 4.1-507 that such consent was unreasonably withheld by the brewery. In any determination as to whether a wholesaler has failed to substantially comply, without reasonable excuse or justification, with any reasonable and material

requirement imposed upon him by the brewery, consideration shall be given to the relative size, population, geographical location, number of retail outlets and demand for the products applicable to the territory of the wholesaler in question and to comparable territories.

Good cause shall not be construed to exist without a finding of a material deficiency for which the wholesaler is responsible in any case in which good cause is alleged to exist based on circumstances not specifically set forth in subdivisions 1 through 4 of this section.

1978, c. 579, § 4-118.7; 1985, c. 549; 1987, c. 247; 1989, c. 272; 1993, c. 866; 1996, c. 3.

§ 4.1-506. Notice of intent to terminate.

A. Except as provided in subsection F, a brewery shall provide a wholesaler at least ninety days' prior written notice of any intent to amend, terminate, cancel or not renew any agreement. The notice, a copy of which shall be mailed at the same time to the Board, shall state all the reasons for the intended amendment, termination, cancellation or nonrenewal.

B. Where the reason relates to a condition or conditions which may be rectified by action of the wholesaler, he shall have sixty days in which to take such action and shall, within the sixty-day period, give written notice to the brewery if and when such action is taken. A copy of the notice shall be mailed at the same time to the Board. If such condition has been rectified by action of the wholesaler, then the proposed amendment, termination, cancellation or nonrenewal shall be void and without legal effect. However, where the brewery contends that action on the part of the wholesaler has not rectified one or more of such conditions the brewery shall within fifteen days after the expiration of such sixty-day period request a hearing before the Board to determine if the condition has been rectified by action of the wholesaler.

C. Where the reason relates to a condition which may not be rectified by the wholesaler within the sixty-day period, the wholesaler may request a hearing before the Board to determine if there is good cause for the amendment, termination, cancellation or nonrenewal of the agreement.

D. Upon request in writing within the ninety-day period provided in subsection A from such brewery or wholesaler for a hearing, the Board shall, after notice and hearing, determine if the action of the wholesaler has rectified the condition or, as the case may be, if good cause exists for the amendment, termination, cancellation or nonrenewal of the agreement.

E. In any proceeding brought pursuant to this section in which the existence of good cause is an issue, the brewery shall have the burden of proving the existence of good cause. Where a petition is made to the Board in a timely manner for a determination, the agreement in question shall continue in effect pending the Board's decision and any judicial review thereof, except in any case in which the Board makes a finding that there is good cause, as defined in § 4.1-505, for the amendment, termination, cancellation, or nonrenewal, in which case the brewery may, unless otherwise ordered by a court of record, discontinue the agreement in question.

F. No notice shall be required and an agreement may be immediately amended, terminated, cancelled or allowed to expire if the reason for the amendment, termination, cancellation or nonrenewal is:

1. The bankruptcy or receivership of the wholesaler;

2. An assignment for the benefit of creditors or similar disposition of the assets of the business other than the creation of a security interest in the assets of a wholesaler for the purpose of securing financing in the ordinary course of business; or

3. Revocation of the wholesaler's license.

1978, c. 579, § 4-118.8; 1985, c. 549; 1993, c. 866; 1997, c. 183.

§ 4.1-507. Transfer of business.

A. No brewery shall unreasonably withhold or delay consent to any transfer of the wholesaler's business, or transfer of the stock or other interest in the wholesalership, whenever the wholesaler to be substituted meets the material and reasonable qualifications and standards required of its wholesalers. Whenever a transfer of a wholesaler's business occurs, the purchaser shall assume all the obligations imposed on and succeed to all the rights held by the selling wholesaler by virtue of any agreement between the selling wholesaler and one or more breweries entered into prior to the transfer.

B. Notwithstanding any provision in subsection A, no brewery shall withhold consent to, or in any manner retain a right of prior approval of, the transfer of the wholesaler's business to a member or members of the wholesaler's family. However, subsequent to such transfer, the rights and obligations of the wholesalership and its owners shall in all other respects be governed by the provisions of this chapter. As used in this subsection, "family" means the wholesaler's spouse, parents, siblings, children, stepchildren, and lineal descendants, including those by adoption.

1978, c. 579, § 4-118.9; 1985, c. 549; 1993, c. 866.

§ 4.1-508. Remedies.

A. In addition to any other sanctions which the Board is empowered by law to impose, it may order that any act or practice constituting a violation of this chapter be ceased and, where necessary, corrective measures implemented. In addition, in any case in which a brewery is found to have attempted or accomplished an amendment, termination, cancellation, or refusal to continue or renew an agreement without good cause as defined in § 4.1-505, the Board shall, upon the request of the wholesaler involved, enter an order requiring that (i) the agreement remain in effect or be reinstated or (ii) the brewery pay the wholesaler reasonable compensation for the value of the agreement, which shall be determined in the manner provided for in subsection B. Reasonable compensation shall include, but is not limited to, the following:

1. The fair market value of the assets used by the wholesaler specifically for the purpose of distributing the brewery's products;

2. The cost of the wholesaler's inventory of the brewery's products calculated as the sum of the net price paid by the wholesaler for the inventory;

3. The amount of any taxes paid by the wholesaler in connection with purchasing the inventory;

4. The cost of transporting the inventory from the brewery to the wholesaler's warehouse, plus any handling costs; and

5. The goodwill of the wholesaler's business representing a value over and above the fair market value of the foregoing tangible assets.

The compensation for such assets shall be subject to offset for (i) any sums recovered by the wholesaler in liquidation of the assets and (ii) the value which the assets have to the wholesaler independent of their value for use in distributing the brewery's products.

B. In the event the brewery and the beer wholesaler are unable to agree on the reasonable compensation to be paid for the value of the agreement, the matter shall be submitted to a panel of three arbitrators. The brewery and the beer wholesaler shall each select one arbitrator and the two arbitrators selected shall appoint a third arbitrator who shall be a person qualified by experience to appraise the value of existing businesses. The decision of the arbitrators shall be rendered within ninety days from the time the matter is submitted to arbitration unless the Board, for good cause shown, allows for an extension of time not to exceed thirty days, or unless the parties agree to an extension of time. All of the costs of the arbitration shall be paid one-half by the wholesaler and one-half by the brewery. By entering into an agreement, the parties are deemed to have agreed to arbitration as provided in this subsection and, further, that such arbitration shall be governed by the provisions of Chapter 21 (§ 8.01-577 et seq.) of Title 8.01.

C. In addition to the foregoing remedies, in any case in which a brewery is found to have violated § 4.1-506, the Board may, upon request of the wholesaler involved, order the brewery to compensate the wholesaler for any losses proximately resulting from such violation, including but not limited to lost profits. Such losses shall be determined in the manner provided in subsection B and shall be calculated from the date of the violation by the brewery to the date the brewery initiates remedial action pursuant to Board order.

1978, c. 579, § 4-118.10; 1985, c. 549; 1987, c. 247; 1993, c. 866.

§ 4.1-509. Board proceedings and appellate review.

A. The Board, upon petition by any beer wholesaler or brewery, or upon its own motion if it has reasonable grounds to believe a violation has or may have occurred, shall have the responsibility of determining whether a violation of any provision of this chapter has occurred. The Board may, if it finds that a brewery or beer wholesaler has acted in bad faith in violating any provision of this chapter or in seeking relief pursuant to this chapter, award reasonable costs and attorneys' fees to the prevailing party.

B. All proceedings under this chapter and any judicial review thereof shall be held in accordance with and governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq.). Notwithstanding the foregoing, the Board may adopt regulations pertaining to proceedings under this chapter, including regulations authorizing or requiring the issuance of subpoenas for the production of documents, subpoenas for the attendance of witnesses, requests for admissions, interrogatories, and depositions, not inconsistent with Part 4 of the Rules of the Supreme Court of Virginia.

C. In all proceedings under this chapter the Board or the circuit court reviewing a Board order, for good cause, shall enter an order requiring that information relating to the sale, marketing or manufacturing practices or processes of the brewery or the wholesaler be filed with the Board or the court, as the case may be, in sealed envelopes and that the information contained therein remain available only to the brewery and wholesaler on condition that such information will not be disclosed

by the Board, the brewery, or the wholesaler, or their respective agents and employees. Upon conclusion of the proceedings under this chapter, information supplied shall be returned to the party furnishing it or, in the alternative, the Board or the court may order that such information be sealed to be opened only by order of the Board or the court.

1978, c. 579, § 4-118.11; 1980, c. 299; 1981, c. 536; 1985, c. 549; 1987, c. 139; 1993, c. 866.

§ 4.1-509.1. Board proceedings; contemplated actions by brewery or wholesaler.

A. For purposes of this section, "contemplated action" means an action proposed by a brewery or wholesaler that (i) if carried out would violate any provision of this chapter or clause (v) of subdivision A 1 b of § 4.1-225 and (ii) is demonstrated by a specific written statement authored by a brewery or an employee of a wholesaler who is specifically authorized by virtue of job title and responsibility to make such statement and such other evidence as may be required by the Board pursuant to the facts of any given circumstance.

B. Subsequent to compliance with subsection D, any wholesaler may file a petition against a brewery, and any brewery may file a petition against a wholesaler, in which the petitioner alleges that the respondent named in the petition as a matter of past or present fact has contemplated action that if carried out would violate any provision of this chapter or clause (v) of subdivision A 1 b of § 4.1-225. Any such petition filed shall identify with specificity the alleged contemplated action, the document in which such contemplated action is described or authorized, and specify the provision of law or regulation that the contemplated action would violate if carried out. The petition shall include a statement that a controversy as to the lawfulness of the contemplated action exists. The statement shall be supported by evidence of the petitioner's good faith effort to resolve the controversy in accordance with subsection D. The petitioner shall have the burden of establishing that the contemplated actions identified in the petition, if carried out, would violate any provision of law or regulation enumerated in this subsection. The Board may, if it finds that a brewery or wholesaler has frivolously maintained a petition or defense to a proceeding pursuant to this chapter, award reasonable costs and attorney fees to the prevailing party.

C. Any petition filed by a brewery or wholesaler pursuant to this section shall be delivered to the Secretary of the Board. The Board shall promptly issue a written determination as to whether a violation or attempted violation as alleged in the petition has occurred. In addition, the Board shall promptly issue a written determination as to whether a violation alleged in the petition would occur if the contemplated action identified in the petition were to be carried out.

D. Prior to filing a petition, a party shall communicate with the party alleged to be considering a contemplated action and initiate a good faith attempt to resolve the issue in question. If within 21 days of initiating the communication required by this subsection, or such longer period of time if mutually agreed upon, there is no resolution, either party may proceed to file a petition in accordance with subsection B.

2013, c. 3; 2023, c. 774.

§ 4.1-510. Price of product.

No brewery, whether by means of a term or condition of an agreement or otherwise, shall fix or maintain the prices at which the wholesaler shall sell any beer.

1978, c. 579, § 4-118.12; 1993, c. 866.

§ 4.1-511. Increase of prices.

No brewery or beer importer shall increase the prices charged any wholesale beer licensee for beer except by written notice to the wholesaler signed by an authorized officer or agent of the brewery or beer importer, which notice shall contain the amount and effective date of the increase. A copy of the notice shall be sent to the Board and shall be treated as confidential information, except in relation to enforcement proceedings for violation of this section. No increase shall take effect prior to thirty calendar days following the date on which the notice is postmarked. The Board may authorize such price increases to take effect with less than the aforesaid thirty-calendar-day notice if a brewery or beer importer so requests and demonstrates good cause therefor.

1982, c. 122, § 4-118.12:1; 1993, c. 866.

§ 4.1-512. Retaliatory action prohibited.

A brewery shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the brewery with the appropriate state or federal regulatory or judicial authority. Retaliatory action shall include, but is not limited to, refusal without good cause to continue the agreement, or a material reduction in the amount and quality of service or quantity of products available to the wholesaler under the agreement.

1978, c. 579, § 4-118.13; 1993, c. 866.

§ 4.1-513. Management.

No brewery shall require or prohibit any change in management or personnel of any wholesaler unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the brewery for all its wholesalers.

1978, c. 579, § 4-118.14; 1985, c. 549; 1993, c. 866.

§ 4.1-514. Discrimination prohibited.

No brewery shall discriminate among its wholesalers in any business dealings including, but not limited to, the price of beer sold to the wholesaler, unless the classification among its wholesalers is based upon reasonable grounds.

1978, c. 579, § 4-118.15; 1993, c. 866.

§ 4.1-515. Waiver prohibited; conflicts of laws.

A. No brewery shall require any wholesaler to waive compliance with any provision of this chapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this chapter shall limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

B. Any contract between a brewery and a beer wholesaler pursuant to which the wholesaler is to

market the brewery's products in the Commonwealth shall be governed by the laws of the Commonwealth as the place of performance notwithstanding the fact that such contract may have been made in another state or the fact that such contract may provide that it is to be governed by the laws of another state.

1978, c. 579, § 4-118.16; 1989, c. 272; 1993, c. 866.

§ 4.1-516. Right of free association.

No brewery or wholesaler shall restrict or inhibit the right of free association among breweries or wholesalers for any lawful purpose.

1978, c. 579, § 4-118.19; 1993, c. 866.

§ 4.1-517. Reasonableness and good faith.

A. Every agreement entered into under this chapter shall impose on the parties the obligation to act in good faith.

B. This chapter shall impose on every term and provision of any agreement a requirement of reasonableness. Every term or provision shall be interpreted so that the requirements or obligations imposed therein are reasonable.

1985, c. 549, § 4-118.20:1; 1993, c. 866.

Subtitle II. Cannabis Control Act

Chapter 6. General Provisions.

§ 4.1-600. Definitions.

As used in this subtitle, unless the context requires a different meaning:

"Advertisement" or "advertising" means any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any written, printed, graphic, digital, electronic, or other material, billboard, sign, or other outdoor display, publication, or radio or television broadcast.

"Authority" means the Virginia Cannabis Control Authority created pursuant to this subtitle.

"Board" means the Board of Directors of the Virginia Cannabis Control Authority.

"Cannabis Control Act" means Subtitle II (§ 4.1-600 et seq.).

"Child-resistant" means, with respect to packaging or a container, (i) specially designed or constructed to be significantly difficult for a typical child under five years of age to open and not to be significantly difficult for a typical adult to open and reseal and (ii) for any product intended for more than a single use or that contains multiple servings, resealable.

"Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing or testing.

"Edible marijuana product" means a marijuana product intended to be consumed orally, including marijuana intended to be consumed orally or marijuana concentrate intended to be consumed orally.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Manufacturing" or "manufacture" means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

"Marijuana" means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. "Marijuana" does not include (i) the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis; (ii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (iii) industrial hemp, as defined in § 3.2-4112, that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product, as defined in § 3.2-4112; (v) an industrial hemp extract, as defined in § 3.2-5145.1; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Board of Pharmacy into one of the schedules set forth in the Drug Control Act (§ 54.1-3400 et seq.) pursuant to § 54.1-3443.

"Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

"Marijuana cultivation facility" means a facility licensed under this subtitle to cultivate, label, and package retail marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds to marijuana wholesalers and retail marijuana stores; to transfer possession of and sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell retail marijuana to marijuana manufacturing facilities; and to sell immature marijuana plants and marijuana seeds to consumers for the purpose of cultivating marijuana at home for personal use.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or a retail marijuana store.

"Marijuana manufacturing facility" means a facility licensed under this subtitle to manufacture, label, and package retail marijuana and retail marijuana products; to purchase or take possession of retail marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; and to transfer possession of and sell retail marijuana and retail marijuana products to marijuana wholesalers, retail marijuana stores, or other marijuana manufacturing facilities.

"Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

"Marijuana products" means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

"Marijuana testing facility" means a facility licensed under this subtitle to develop, research, or test marijuana, marijuana products, and other substances.

"Marijuana wholesaler" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

"Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed marijuana establishment.

"Non-retail marijuana products" means marijuana products that are not manufactured and sold by a licensed marijuana establishment.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the cultivation, manufacture, sale, or testing of retail marijuana or retail marijuana products shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed marijuana establishment.

"Retail marijuana products" means marijuana products that are manufactured and sold by a licensed

marijuana establishment.

"Retail marijuana store" means a facility licensed under this subtitle to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility, marijuana manufacturing facility, or marijuana wholesaler and to sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to consumers.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, retail marijuana or retail marijuana products.

"Special agent" means an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer pursuant to this subtitle.

"Testing" or "test" means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or manufacturing.

"Tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

"Total tetrahydrocannabinol" means the same as that term is defined in § 3.2-4112.

2021, Sp. Sess. I, cc. 550, 551; 2023, cc. 744, 794.

§ 4.1-601. Virginia Cannabis Control Authority created; public purpose.

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Cannabis Control Authority. The Authority's exercise of powers and duties conferred by this subtitle shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent.

B. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of retail marijuana and retail marijuana products in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which retail marijuana and retail marijuana products are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in

conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-602. Virginia Cannabis Control Authority; composition.

A. The Virginia Cannabis Control Authority shall consist of the Board of Directors, the Cannabis Public Health Advisory Council, the Chief Executive Officer, and the agents and employees of the Authority.

B. Nothing contained in this subtitle shall be construed as a restriction or limitation upon any powers that the Board might otherwise have under any other law of the Commonwealth.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-603. Cannabis Public Health Advisory Council; purpose; membership; quorum; meetings; compensation and expenses; duties.

A. The Cannabis Public Health Advisory Council (the Advisory Council) is established as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor public health issues, trends, and impacts related to marijuana and marijuana legalization and make recommendations regarding health warnings, retail marijuana and retail marijuana products safety and product composition, and public health awareness, programming, and related resource needs.

B. The Advisory Council shall have a total membership of 21 members that shall consist of 14 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members of the Council shall be citizens of the Commonwealth and shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Nonlegislative citizen members shall be appointed as follows: four to be appointed by the Senate Committee on Rules, one of whom shall be a representative from the Virginia Foundation for Healthy Youth, one of whom shall be a representative from the Virginia Chapter of the American Academy of Pediatrics, one of whom shall be a representative from the Medical Society of Virginia, and one of whom shall be a representative from the Virginia Pharmacists Association; six to be appointed by the Speaker of the House of Delegates, one of whom shall be a representative from a community services board, one of whom shall be a person or health care provider with expertise in substance use disorder treatment and recovery, one of whom shall be a person or health care provider with expertise in substance use disorder prevention, one of whom shall be a person with experience in disability rights advocacy, one of whom shall be a person with experience in veterans health care, and one of whom shall be a person with a social or health equity background; and four to be appointed by the Governor, subject to confirmation by the General Assembly, one of whom shall be a representative of a local health district, one of whom shall be a person who is part of the cannabis industry, one of whom shall be an academic researcher knowledgeable about cannabis, and one of whom shall be a registered medical cannabis patient.

The Secretary of Health and Human Resources, the Commissioner of Health, the Commissioner of Behavioral Health and Developmental Services, the Commissioner of Agriculture and Consumer Services, the Director of the Department of Health Professions, the Director of the Department of Forensic Science, and the Chief Executive Officer of the Virginia Cannabis Control Authority, or their designees, shall serve ex officio with voting privileges. Ex officio members of the Advisory Council

shall serve terms coincident with their terms of office.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Advisory Council shall be chaired by the Secretary of Health and Human Resources or his designee. The Advisory Council shall select a vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at least two times each year and shall meet at the call of the chairman or whenever the majority of the members so request.

The Advisory Council shall have the authority to create subgroups with additional stakeholders, experts, and state agency representatives.

C. Members shall receive no compensation for the performance of their duties but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

D. The Advisory Council shall have the following duties, in addition to duties that may be necessary to fulfill its purpose as described in subsection A:

1. To review multi-agency efforts to support collaboration and a unified approach on public health responses related to marijuana and marijuana legalization in the Commonwealth and to develop recommendations as necessary.

2. To monitor changes in drug use data related to marijuana and marijuana legalization in the Commonwealth and the science and medical information relevant to the potential health risks associated with such drug use, and make appropriate recommendations to the Department of Health and the Board.

3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Advisory Council no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-604. (Effective until January 1, 2024) Powers and duties of the Board.

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

3. Grant, suspend, and revoke licenses for the cultivation, manufacture, distribution, sale, and testing of marijuana and marijuana products as provided by law;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;

10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed;

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;

12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

13. Adopt, use, and alter at will a common seal;

14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the

sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;

16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

17. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

20. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell,

transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;

24. Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. Assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-604. (Effective January 1, 2024) Powers and duties of the Board.

The Board shall have the following powers and duties:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-606;

2. Control the possession, sale, transportation, and delivery of marijuana and marijuana products;

3. Grant, suspend, restrict, revoke, or refuse to grant or renew any license or permit issued or authorized pursuant to this subtitle;

4. Determine the nature, form, and capacity of all containers used for holding marijuana products to be kept or sold and prescribe the form and content of all labels and seals to be placed thereon;

5. Maintain actions to enjoin common nuisances as defined in § 4.1-1113;

6. Establish standards and implement an online course for employees of retail marijuana stores that trains employees on how to educate consumers on the potential risks of marijuana use;

7. Establish a plan to develop and disseminate to retail marijuana store licensees a pamphlet or similar document regarding the potential risks of marijuana use to be prominently displayed and made available to consumers;

8. Establish a position for a Cannabis Social Equity Liaison who shall lead the Cannabis Business Equity and Diversity Support Team and liaise with the Director of Diversity, Equity, and Inclusion on matters related to diversity, equity, and inclusion standards in the marijuana industry;

9. Establish a Cannabis Business Equity and Diversity Support Team, which shall (i) develop requirements for the creation and submission of diversity, equity, and inclusion plans by persons who wish to possess a license in more than one license category pursuant to subsection C of § 4.1-805, which may include a requirement that the licensee participate in social equity apprenticeship plan, and an approval process and requirements for implementation of such plans; (ii) be responsible for conducting an analysis of potential barriers to entry for small, women-owned, and minority-owned businesses and veteran-owned businesses interested in participating in the marijuana industry and recommending strategies to effectively mitigate such potential barriers; (iii) provide assistance with business planning for potential marijuana establishment licensees; (iv) spread awareness of business opportunities related to the marijuana marketplace in areas disproportionately impacted by

marijuana prohibition and enforcement; (v) provide technical assistance in navigating the administrative process to potential marijuana establishment licensees; and (vi) conduct other outreach initiatives in areas disproportionately impacted by marijuana prohibition and enforcement as necessary;

10. Establish a position for an individual with professional experience in a health related field who shall staff the Cannabis Public Health Advisory Council, established pursuant to § 4.1-603, liaise with the Office of the Secretary of Health and Human Resources and relevant health and human services agencies and organizations, and perform other duties as needed;

11. Establish and implement a plan, in coordination with the Cannabis Social Equity Liaison and the Director of Diversity, Equity, and Inclusion to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities;

12. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

13. Adopt, use, and alter at will a common seal;

14. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

15. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this subtitle, including agreements with any person or federal agency;

16. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

17. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

18. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where

appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

19. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

20. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

21. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

22. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this subtitle;

23. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this subtitle, including rectifying, blending, and processing plants;

24. Appoint every agent and employee required for its operations, require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board, and engage the services of experts and professionals;

25. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before the Board or any agent of the Board, and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant, licensee, or permittee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or permit or (ii) disciplinary action. Any such consent agreement (a) shall include findings of fact and provisions regarding whether the terms of the consent agreement are confidential and (b) may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

26. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its

subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

27. Take appropriate disciplinary action and assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this subtitle;

30. Establish and collect fees for all permits set forth in this subtitle, including fees associated with applications for such permits;

31. Develop and make available on its website guidance documents regarding compliance and safe practices for persons who cultivate marijuana at home for personal use, which shall include information regarding cultivation practices that promote personal and public safety, including child protection, and discourage practices that create a nuisance;

32. Develop and make available on its website a resource that provides information regarding (i) responsible marijuana consumption; (ii) health risks and other dangers associated with marijuana consumption, including inability to operate a motor vehicle and other types of transportation and equipment; and (iii) ancillary effects of marijuana consumption, including ineligibility for certain employment opportunities. The Board shall require that the web address for such resource be included on the label of all retail marijuana and retail marijuana product as provided in § 4.1-1402; and

33. Do all acts necessary or advisable to carry out the purposes of this subtitle.

2021, Sp. Sess. I, cc. 550, 551; 2023, cc. 740, 773.

§ 4.1-605. (Effective until January 1, 2024) Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve

underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-605. (Effective January 1, 2024) Additional powers; mediation; alternative dispute resolution; confidentiality.

A. As used in this section:

"Appropriate case" means any alleged license or permit violation or objection to the application for a license or permit in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license or permit only with the consent of, and participation by, the applicant for a license or permit and shall be

terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in § 4.1-604. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting, suspending, restricting, or revoking a license or permit, or in accepting payment of a civil penalty or investigative costs. Consent agreements shall be signed by all parties and shall include provisions regarding whether the terms of the consent agreement are confidential.

2021, Sp. Sess. I, cc. 550, 551; 2023, cc. 740, 773.

§ 4.1-606. Regulations of the Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, that it deems necessary to carry out the provisions of this subtitle and to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana products. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including security requirements to include lighting, physical security, and alarm requirements, provided that such requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

2. Establish requirements for securely transporting marijuana between marijuana establishments;

3. Establish sanitary standards for retail marijuana product preparation;

4. Establish a testing program for retail marijuana and retail marijuana products pursuant to Chapter 14 (§ 4.1-1400 et seq.);

5. Establish an application process for licensure as a marijuana establishment pursuant to this subtitle in a way that, when possible, prevents disparate impacts on historically disadvantaged communities;

6. Establish requirements for health and safety warning labels to be placed on retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with

the provisions of this subtitle;

7. Establish a maximum tetrahydrocannabinol level for retail marijuana products, which shall not exceed (i) five milligrams per serving for edible marijuana products and where practicable an equivalent amount for other marijuana products or (ii) 50 milligrams per package for edible marijuana products and where practicable an equivalent amount for other marijuana products. Such regulations may include other product and dispensing limitations on tetrahydrocannabinol;

8. Establish requirements for the form, content, and retention of all records and accounts by all licensees;

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and offsite storage;

10. Establish (i) criteria by which to evaluate new licensees based on the density of retail marijuana stores in the community and (ii) metrics that have similarly shown an association with negative community-level health outcomes or health disparities. In promulgating such regulations, the Board shall coordinate with the Cannabis Public Health Advisory Council established pursuant to § 4.1-603;

11. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail;

12. Prescribe the schedule of proration for refunded license fees to licensees who qualify pursuant to subsection C of § 4.1-1002;

13. Establish criteria by which to evaluate social equity license applicants, which shall be an applicant who has lived or been domiciled for at least 12 months in the Commonwealth and is either (i) an applicant with at least 66 percent ownership by a person or persons who have been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (ii) an applicant with at least 66 percent ownership by a person or persons who is the parent, child, sibling, or spouse of a person who has been convicted of or adjudicated delinquent for any misdemeanor violation of § 18.2-248.1, former § 18.2-250.1, or subsection A of § 18.2-265.3 as it relates to marijuana; (iii) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the past five years in a jurisdiction that is determined by the Board after utilizing census tract data made available by the United States Census Bureau to have been disproportionately policed for marijuana crimes; (iv) an applicant with at least 66 percent ownership by a person or persons who have resided for at least three of the last five years in a jurisdiction determined by the Board after utilizing census tract data made available by the United States Census Bureau to be economically distressed; or (v) an applicant with at least 66 percent ownership by a person or persons who graduated from a historically black college or university located in the Commonwealth;

14. For the purposes of establishing criteria by which to evaluate social equity license applicants, establish standards by which to determine (i) which jurisdictions have been disproportionately policed for marijuana crimes and (ii) which jurisdictions are economically distressed;

15. Establish standards and requirements for (i) any preference in the licensing process for qualified social equity applicants, (ii) what percentage of application or license fees are waived for a qualified

social equity applicant, and (iii) a low-interest business loan program for qualified social equity applicants;

16. Establish guidelines, in addition to requirements set forth in this subtitle, for the personal cultivation of marijuana that promote personal and public safety, including child protection, and discourage personal cultivation practices that create a nuisance, including a nuisance caused by odor;

17. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail marijuana or retail marijuana products, not inconsistent with the provisions of this chapter, so that such advertising displaces the illicit market and notifies the public of the location of marijuana establishments. Such regulations shall be promulgated in accordance with § 4.1-1404;

18. Establish restrictions on the number of licenses that a person may be granted to operate a marijuana establishment in single locality or region; and

19. Establish restrictions on pharmaceutical processors and industrial hemp processors that have been granted a license in more than one license category pursuant to subsection C of § 4.1-805 that ensure all licensees have an equal and meaningful opportunity to participate in the market. Such regulations may limit the amount of products cultivated or manufactured by the pharmaceutical processor or industrial hemp processor that such processor may offer for sale in its retail marijuana stores.

C. The Board may promulgate regulations that:

1. Limit the number of licenses issued by type or class to operate a marijuana establishment; however, the number of licenses issued shall not exceed the following limits:

a. Retail marijuana stores, 400;

b. Marijuana wholesalers, 25;

c. Marijuana manufacturing facilities, 60; and

d. Marijuana cultivation facilities, 450.

In determining the number of licenses issued pursuant to this subdivision, the Board shall not consider any license granted pursuant to subsection C of § 4.1-805 to (i) a pharmaceutical processor that has been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act or (ii) an industrial hemp processor registered with the Commissioner of Agriculture and Consumer Services pursuant to Chapter 41.1 (§ 3.2-4112 et seq.) of Title 3.2.

2. Prescribe any requirements deemed appropriate for the administration of taxes under §§ 4.1-1003 and 4.1-1004, including method of filing a return, information required on a return, and form of payment.

3. Limit the allowable square footage of a retail marijuana store, which shall not exceed 1,500 square feet.

4. Allow certain persons to be granted or have interest in a license in more than one of the following license categories: marijuana cultivation facility license, marijuana manufacturing facility license, marijuana wholesaler license, or retail marijuana store license. Such regulations shall be drawn

narrowly to limit vertical integration to small businesses and ensure that all licensees have an equal and meaningful opportunity to participate in the market.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board shall consult with the Cannabis Public Health Advisory Council in promulgating any regulations relating to public health, including regulations promulgated pursuant to subdivision B 3, 4, 6, 7, 10, or 16, and shall not promulgate any such regulation that has not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

G. With regard to regulations governing licensees that have been issued a permit by the Board of Pharmacy to operate as a pharmaceutical processor or cannabis dispensing facility pursuant to Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act, the Board shall make reasonable efforts (i) to align such regulations with any applicable regulations promulgated by the Board of Pharmacy that establish health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities and (ii) to deem in compliance with applicable regulations promulgated pursuant to this subtitle such pharmaceutical processors and cannabis dispensing facilities that have been found to be in compliance with regulations promulgated by the Board of Pharmacy that mirror or are more extensive in scope than similar regulations promulgated pursuant to this subtitle.

H. The Board's power to regulate shall be broadly construed.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-607. Board membership; terms; compensation.

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. Appointees shall be subject to a background check in accordance with § 4.1-609.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-608. Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board, shall hold, at a minimum, a baccalaureate degree in business or a related field of study, and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-609. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in

accordance with this subtitle.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-609. Background investigations of Board members and Chief Executive Officer.

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately preceding appointment.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-610. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this subtitle

or in any entity that has submitted an application for a license under Chapter 8 (§ 4.1-800 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-611. Seed-to-sale tracking system.

To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-612. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-614.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-613. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this subtitle, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-614. Disposition of moneys collected by the Board.

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in the administration of this subtitle.

B. The net profits derived under the provisions of this subtitle shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within 50 days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of $2.5 million in connection with the administration of this subtitle and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. After accounting for the Authority's expenses as provided in subsection A, net profits shall be appropriated in the general appropriation act as follows:

1. Forty percent to pre-kindergarten programs for at-risk three-year-olds and four-year-olds;

2. Thirty percent to the Cannabis Equity Reinvestment Fund established pursuant to § 2.2-2499.8;

3. Twenty-five percent to the Department of Behavioral Health and Developmental Services, which shall distribute such appropriated funds to community services boards for the purpose of administering substance use disorder prevention and treatment programs; and

4. Five percent to public health programs, including public awareness campaigns that are designed to prevent drugged driving, discourage consumption by persons younger than 21 years of age, and inform the public of other potential risks.

C. As used in this section, "net profits" means the total of all moneys collected by the Board, less local marijuana tax revenues collected under § 4.1-1004 and distributed pursuant to § 4.1-614 and all costs, expenses, and charges authorized by this section.

D. All local tax revenues collected under § 4.1-1004 shall be paid into the state treasury as provided in subsection A and credited to a special fund, which is hereby created on the Comptroller's books under the name "Collections of Local Marijuana Taxes." The revenues shall be credited to the account of the locality in which they were collected. If revenues were collected from a marijuana establishment located in more than one locality by reason of the boundary line or lines passing through the marijuana establishment, tax revenues shall be distributed pro rata among the localities. The Authority shall provide to the Comptroller any records and assistance necessary for the Comptroller to determine the locality to which tax revenues are attributable.

On a quarterly basis, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each locality entitled to the return of its tax revenues, and such payments shall be charged to the account of each such locality under the special fund created by this section. If errors

are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-615. Leases and purchases of property by the Board.

The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-616. Exemptions from taxes or assessments.

The exercise of the powers granted by this subtitle shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this subtitle or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-617. Exemption of Authority from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this subtitle. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2,

regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-618. Reversion to the Commonwealth.

In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the Commonwealth.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-619. Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation.

A. Whenever in this subtitle the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this subtitle the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 8 (§ 4.1-800 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-903 to a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-620. Reports and accounting systems of Board; auditing books and records.

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this subtitle. Additionally, the Board shall submit an annual report to the Governor,

the General Assembly, and the Chief Executive Officer of the Authority on or before December 15 each year, which shall contain:

1. The number of state licenses of each category issued pursuant to this subtitle;

2. Demographic information concerning the licensees;

3. A description of enforcement and disciplinary actions taken against licensees;

4. A statement of revenues and expenses related to the implementation, administration, and enforcement of this subtitle;

5. A statement showing the taxes collected under this subtitle during the year;

6. General information and remarks about the working of the cannabis control laws within the Commonwealth;

7. A description of the efforts undertaken by the Board to promote diverse business ownership within the cannabis industry; and

8. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-621. Certain information not to be made public.

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to this subtitle; (ii) the purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale tracking system maintained by the Board pursuant to § 4.1-611. The provisions of § 58.1-3 shall apply, mutatis mutandis, to taxes collected pursuant to this subtitle and to purchase orders and invoices for retail marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (a) tax collection, as long as such information does not reveal or disclose tax collection from any identified licensee; (b) the total amount of retail marijuana or retail marijuana products sales in the

Commonwealth by marijuana wholesaler licensees collectively; or (c) the total amount of purchases or sales submitted by licensees, provided that such information does not identify the licensee.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-622. Criminal history records check required on certain employees; reimbursement of costs.

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-623. Employees of the Authority.

Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-624. Police power of members, agents, and employees of Board.

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this subtitle and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-625. Liability of Board members; suits by and against Board.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-626. Counsel for members, agents, and employees of Board.

If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-627. (Effective until January 1, 2024) Hearings; representation by counsel.

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-627. (Effective January 1, 2024) Hearings; representation by counsel.

Any licensee, permittee, or applicant for a license or permit authorized by this subtitle shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee, permittee, or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

2021, Sp. Sess. I, cc. 550, 551; 2023, cc. 740, 773.

§ 4.1-628. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such

allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-629. Reserved.

Reserved.

Chapter 7. Administration of Licenses; General Provisions.

§§ 4.1-700 through 4.1-703. Reserved.

Reserved.

Chapter 8. Administration of Licenses; Licenses Granted By Board.

§§ 4.1-800 through 4.1-811. Reserved.

Reserved.

Chapter 9. Administration of Licenses; Suspension and Revocation.

§§ 4.1-900 through 4.1-904. Reserved.

Reserved.

Chapter 10. Administration of Licenses; Applications for Licenses; Fees; Taxes.

§§ 4.1-1000 through 4.1-1009. Reserved.

Reserved.

Chapter 11. Possession of Retail Marijuana and Retail Marijuana Products; Prohibited Practices Generally.

§ 4.1-1100. Possession, etc., of marijuana and marijuana products by persons 21 years of age or older lawful; penalties.

A. Except as otherwise provided in this subtitle and notwithstanding any other provision of law, a person 21 years of age or older may lawfully possess on his person or in any public place not more than one ounce of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board.

B. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth in subsection A is subject to a civil penalty of no more than $25 except

as otherwise provided in this section. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. With the exception of possession by a person in his residence or possession by a licensee in the course of his duties related to such licensee's marijuana establishment, any person who possesses on his person or in any public place (i) more than four ounces but not more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a Class 3 misdemeanor and, for a second or subsequent offense, a Class 2 misdemeanor and (ii) more than one pound of marijuana or an equivalent amount of marijuana product as determined by regulation promulgated by the Board is guilty of a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than $250,000, or both.

D. The provisions of this section shall not apply to members of federal, state, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

2021, Sp. Sess. I, cc. 550, 551; 2022, Sp. Sess. I, c. 2.

§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.

A. Notwithstanding the provisions of subdivision (c) of § 18.2-248.1, a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

A violation of this subsection shall be punishable as follows:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of $250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years or a fine of not more than $250,000, or both.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;

2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as authorized under this section.

Any person who violates this subsection is subject to a civil penalty of no more than $25. The penalty for any violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

2021, Sp. Sess. I, cc. 550, 551; 2022, Sp. Sess. I, c. 2.

§ 4.1-1101.1. Adult sharing of marijuana.

A. For the purposes of this section, "adult sharing" means transferring marijuana between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which (i) marijuana is given away contemporaneously with another reciprocal transaction between the same parties; (ii) a gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent upon a separate reciprocal transaction for goods or services.

B. Notwithstanding the provisions of § 18.2-248.1, no civil or criminal penalty may be imposed for adult sharing of an amount of marijuana that does not exceed one ounce or of an equivalent amount of marijuana products.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1102. Reserved.

Reserved.

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; venue; exceptions; penalties; treatment and education programs and services.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than $25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than $25 and the

court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1106. Reserved.

Reserved.

§ 4.1-1107. Using or consuming marijuana or marijuana products while in a motor vehicle being driven upon a public highway; penalty.

A. For the purposes of this section:

"Open container" means any vessel containing marijuana or marijuana products, except the originally sealed manufacturer's container.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

B. It is unlawful for any person to use or consume marijuana or marijuana products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth.

C. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana products in violation of this section if (i) an open container is located within the passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed and (iii) the appearance, conduct, speech, or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana or marijuana products. Such person may be prosecuted either in the county or city in which the marijuana was used or consumed, or in the county or city in which the person exhibits evidence of physical indicia of use or

consumption of marijuana.

D. Any person who violates this section is guilty of a Class 4 misdemeanor.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1108. Consuming marijuana or marijuana products, or offering to another, in public place; penalty.

A. No person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place.

B. Any person who violates this section is subject to a civil penalty of no more than $25 for a first offense. A person who is convicted under this section of a second offense is subject to a $25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds; penalty.

A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1110. Possessing or consuming marijuana or marijuana products while operating a school bus; penalty.

Any person who possesses or consumes marijuana or marijuana products while operating a school bus and transporting children is guilty of a Class 1 misdemeanor. For the purposes of this section, "school bus" has the same meaning as provided in § 46.2-100.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1111. Reserved.

Reserved.

§ 4.1-1112. Limitation on carrying marijuana or marijuana products in motor vehicle transporting passengers for hire; penalty.

The transportation of marijuana or marijuana products in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.

Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1113. Reserved.

Reserved.

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1402 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

E. For the purposes of this section, "synthetic derivative" and "tetrahydrocannabinol" mean the same as those terms are defined in § 4.1-1400.

2023, cc. 711, 712.

§ 4.1-1120. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment, and education programs or services; drug tests; costs and fees; violations; discharge.

A. Whenever any person who has not previously been convicted of any offense under this subtitle pleads guilty to or enters a plea of not guilty to an offense under this subtitle, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on

probation upon terms and conditions.

B. As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a similar program that is made available through the Department of Corrections; (ii) a local community-based probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

C. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay, unless the person is determined by the court to be indigent.

D. As a condition of probation, the court shall require the accused (i) to successfully complete treatment or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of up to 24 hours of community service. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

E. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

F. When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1121. Issuance of summonses for certain offenses; civil penalties.

Any violation under this subtitle that is subject to a civil penalty is a civil offense and shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

2021, Sp. Sess. I, cc. 550, 551.

Chapter 12. Prohibited Practices By Licensees.

§§ 4.1-1200 through 4.1-1207. Reserved.

Reserved.

Chapter 13. Prohibited Practices; Procedural Matters.

§§ 4.1-1300 and 4.1-1301. Reserved.

Reserved.

§ 4.1-1302. Search without warrant; odor of marijuana.

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing and no search warrant may be issued solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or if the violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1303. Reserved.

Reserved.

Chapter 14. Cannabis Control; Testing; Advertising.

§ 4.1-1400. Definitions.

For the purposes of this chapter, unless the context requires a different meaning:

"Synthetic derivative" means a chemical compound produced by man through a chemical transformation to turn a compound into a different compound by adding or subtracting molecules to or from the original compound.

"Tetrahydrocannabinol" means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, "isomer" means the optical, position, and geometric isomers.

2023, cc. 711, 712.

§ 4.1-1401. General advertising restrictions.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

B. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall:

1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and federal laws and regulations;

2. Accurately and legibly identify the person responsible for its content;

3. Include the following statement: "For use by adults 21 years of age and older"; and

4. If the advertisement involves direct, individualized communication or dialogue, utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in such communication or dialogue.

C. Advertisements regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall not:

1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) through digital pop-ups;

2. Be misleading, deceptive, or false;

3. Target or appeal particularly to persons younger than 21 years of age, including by use of cartoons;

4. Imply that marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol enhance athletic prowess or are government endorsed;

5. Be displayed on a billboard or at a sporting event;

6. Make any reference to the intoxicating effects of marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol;

7. Promote overconsumption or consumption by persons younger than 21 years of age; or

8. Depict a person consuming marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol or depict any person younger than 21 years of age.

D. The provisions of this section shall not apply to noncommercial speech.

2023, cc. 711, 712.

§ 4.1-1402. Outdoor advertising restrictions; limitations; variances.

A. No outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grades K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of the advertisement on a sign will not unduly expose children to advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol.

E. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

F. Nothing in this section shall be construed to authorize billboard signs containing outdoor advertising regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

G. All lawfully erected outdoor signs regarding marijuana, marijuana products, or any substance containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol shall comply with the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor directional sign regarding marijuana, marijuana products, or any substance

containing a synthetic tetrahydrocannabinol or synthetic derivative of tetrahydrocannabinol that is located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2023, cc. 711, 712.

Chapter 15. Virginia Cannabis Equity Business Loan Program and Fund.

§ 4.1-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"CDFI" means a community development financial institution that provides credit and financial services for underserved communities.

"Fund" means the Virginia Cannabis Equity Business Loan Fund established in § 4.1-1501.

"Funding" means loans made from the Fund.

"Program" means the Virginia Cannabis Equity Business Loan Program established in § 4.1-1502.

"Social equity qualified cannabis licensee" means a person or business who meets the criteria in § 4.1-606 to qualify as a social equity applicant and who either holds or is in the final stages of acquiring, as determined by the Board, a license to operate a marijuana establishment.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1501. Virginia Cannabis Equity Business Loan Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing low-interest and zero-interest loans to social equity qualified cannabis licensees in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Authority.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1502. Selection of CDFI; Program requirements; guidelines for management of the Fund.

A. The Authority shall establish a Program to provide loans to qualified social equity cannabis licensees for the purpose of promoting business ownership and economic growth by communities that have been disproportionately impacted by the prohibition of cannabis. The Authority shall select and work in collaboration with a CDFI to assist in administering the Program and carrying out the purposes of the Fund. The CDFI selected by the Authority shall have (i) a statewide presence in Virginia, (ii) experience in business lending, (iii) a proven track record of working with disadvantaged communities, and (iv) the capability to dedicate sufficient staff to manage the Program. Working with the selected CDFI, the Authority shall establish monitoring and accountability mechanisms for businesses receiving funding and shall report annually the number of businesses funded; the geographic distribution of the businesses; the costs of the Program; and the outcomes, including the number and types of jobs created.

B. The Program shall:

1. Identify social equity qualified cannabis licensees who are in need of capital for the start-up of a cannabis business properly licensed pursuant to the provisions of this subtitle;

2. Provide loans for the purposes described in subsection A;

3. Provide technical assistance; and

4. Bring together community partners to sustain the Program.

2021, Sp. Sess. I, cc. 550, 551.

§ 4.1-1503. Annual reports.

On or before December 1 of each year, the Authority shall report to the Secretary of Public Safety and Homeland Security, the Officer of Diversity, Equity, and Inclusion, the Governor, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on such other matters regarding the Fund as the Authority may deem appropriate, including the amount of funding committed to projects from the Fund, or other items as may be requested by any of the foregoing persons to whom such report is to be submitted.

2021, Sp. Sess. I, cc. 550, 551.

Chapter 16. Medical Cannabis Program.

§ 4.1-1600. (Effective January 1, 2024) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602; (ii) is owned, at least in part, by a pharmaceutical processor; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a patient, his registered agent, or, if such patient is a minor or a

vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include industrial hemp extracts, including isolates and distillates, acquired by a pharmaceutical processor pursuant to § 4.1-1602, or a dilution of the resin of the Cannabis plant that contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, handled, or processed in compliance with state or federal law, unless it has been grown and processed in the Commonwealth by a registered industrial hemp processor and acquired and formulated by a pharmaceutical processor.

"Cannabis product" means a product that (i) is formulated with cannabis oil or botanical cannabis; (ii) is produced by a pharmaceutical processor and sold by a pharmaceutical processor or cannabis dispensing facility; (iii) is registered with the Board; (iv) contains, except as otherwise provided in this chapter, no more than 10 milligrams of tetrahydrocannabinol per dose; and (v) is compliant with testing requirements.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § 32.1-162.3, or home care organization as defined in § 32.1-162.7 that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § 63.2-1701, or adult day care center licensed pursuant to § 63.2-1701.

"Dispense" means the same as that term is defined in § 54.1-3300.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 4.1-1602 and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a patient pursuant to a written certification, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Pharmacist" means the same as that term is defined in § 54.1-3300.

"Pharmacy intern" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician" means the same as that term is defined in § 54.1-3300.

"Pharmacy technician trainee" means the same as that term is defined in § 54.1-3300.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Boards of Nursing and Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection F of § 4.1-1601.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

2023, cc. 740, 773.

§ 4.1-1601. (Effective January 1, 2024) Certification for use of cannabis for treatment.

A. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audiovisual technology. No practitioner may issue a written certification while such practitioner is on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor shall not endorse or promote any practitioner who issues certifications to patients. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing. A practitioner who issues written certifications shall not directly or indirectly accept, solicit, or receive anything of value from a pharmaceutical processor, cannabis dispensing facility, or any person associated with a pharmaceutical processor, cannabis dispensing facility, or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis products.

B. The written certification shall be on a form provided by the Authority. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic signature of the practitioner. Such written certification issued pursuant to subsection A shall expire one year after its issuance unless the practitioner provides in such written certification an earlier expiration. A written certification shall not be issued to a patient by more than one practitioner during any given time period.

C. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection A. Nothing in this section shall preclude a practitioner's professional licensing board from sanctioning the practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

D. A practitioner who issues a written certification to a patient pursuant to this section (i) shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients; (ii) shall not offer a discount or any other thing of value to a patient or a patient's parent, guardian, or registered agent that is contingent on or encourages the person's decision to use a particular pharmaceutical processor or cannabis product; (iii) shall not issue a certification to himself or his family members, employees, or coworkers; (iv) shall not provide product samples containing

cannabis other than those approved by the U.S. Food and Drug Administration; and (v) shall not accept compensation from a pharmaceutical processor or cannabis dispensing facility. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

E. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification. Pharmaceutical processors and cannabis dispensing facilities shall electronically transmit on a monthly basis all new written certifications received by the pharmaceutical processor or cannabis dispensing facility to the Authority.

F. A patient, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board unless the individual's name listed on the patient's written certification. An individual may, on the basis of medical need and in the discretion of the patient's registered practitioner, be listed on the patient's written certification upon the patient's request. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

G. Upon delivery of a cannabis product by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications may accept delivery of the cannabis product on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis product to the patient or resident as necessary.

H. Information obtained under the patient certification or agent registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a patient, or (v) a patient's registered agent, but only with respect to information related to such patient.

2023, cc. 740, 773.

§ 4.1-1602. (Effective January 1, 2024) Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Authority and signed by a pharmacist who will be in full and actual charge of the

pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) routine inspections no more frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a patient, his registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations for cannabis products that provide that each dispensed dose of a cannabis product not exceed 10 milligrams of total tetrahydrocannabinol, except as permitted under § 4.1-1603.2; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection N; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring industrial hemp extracts and formulating such extracts into cannabis products; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating cannabis plants intended for producing cannabis products, (b) the disposal of agricultural waste, and (c) a process for registering cannabis products.

D. The Board shall require pharmaceutical processors, after processing and before dispensing any cannabis products, to make a sample available from each batch of cannabis product for testing by an independent laboratory that is located in Commonwealth and meets Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD), total tetrahydrocannabinol (THC), terpenes, pesticide chemical residue, heavy metals, mycotoxins, moisture, and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate botanical cannabis or cannabis oil that fails any quality

testing standard except pesticides. Following remediation, all remediated botanical cannabis or cannabis oil shall be subject to laboratory testing which shall not be more stringent than initial testing prior to remediation. Remediated botanical cannabis or cannabis oil that passes such quality testing may be packaged and labeled. If a batch of botanical cannabis fails retesting after remediation, it shall be considered usable cannabis and may be processed into cannabis oil. Stability testing shall not be required for any cannabis product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of the cannabis product registration approval. Stability testing required for assignment of an expiration date longer than six months shall be limited to microbial testing, on a pass/fail basis, and potency testing, on a 15 percent deviation basis, of total THC and total CBD. No cannabis product shall have an expiration date longer than six months from the date of the cannabis product registration approval unless supported by stability testing.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards established by the Board of Pharmacy in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility unless all cannabis products are contained in a vault or other similar container to which only the pharmacist has access controls. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis and cannbis products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

H. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

I. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience

cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

J. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

K. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

L. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

M. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

N. A pharmaceutical processor may acquire from a registered industrial hemp handler or processor industrial hemp extracts that (i) are grown and processed in Virginia, and (ii) notwithstanding the tetrahydrocannabinol limits set forth in the definition of "industrial hemp extract" in § 3.2-5145.1, contain a total tetrahydrocannabinol concentration of no greater than 0.3 percent. A pharmaceutical processor may process and formulate such extracts into an allowable dosage of cannabis product. Industrial hemp extracts acquired and formulated by a pharmaceutical processor are subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law governing the testing of cannabis products. The industrial hemp handler or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp extracts may be acquired.

O. Product labels for all cannabis products and botanical cannabis shall be complete, accurate, easily discernable, and uniform among different products and brands. Pharmaceutical processors shall affix to all cannabis products and botanical cannabis a label, which shall also be accessible on the pharmaceutical processor's website, that includes:

1. The product name;

2. All active and inactive ingredients, including cannabinoids, terpenes, additives, preservatives, flavorings, sweeteners, and carrier oils;

3. The total percentage and milligrams of tetrahydrocannabinol and cannabidiol included in the product and the number of milligrams of tetrahydrocannabinol and cannabidiol in each serving;

4. The amount of product that constitutes a single serving and the amount recommended for use by

the practitioner or dispensing pharmacist;

5. Information regarding the product's purpose and detailed usage directions;

6. Child and safety warnings in a conspicuous font; and

7. Such other information required by the Board.

P. A pharmaceutical processor or cannabis dispensing facility shall maintain an adequate supply of cannabis products that (i) contain cannabidiol as their primary cannabinoid and (ii) have low levels of or no tetrahydrocannabinol.

Q. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

2023, cc. 740, 773.

§ 4.1-1603. (Effective January 1, 2024) Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia and has been issued a valid written certification; (ii) such patient's registered agent; or (iii) if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia. A companion may accompany a patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the corresponding registered agent if applicable. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the registered agent if applicable. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a

cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis products that have been formulated with extracts from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp handler or processor pursuant to § 4.1-1602. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board.

D. The concentration of total tetrahydrocannabinol in any cannabis product on site may be up to 15 percent greater than or less than the level of total tetrahydrocannabinol listed in the approved cannabis product registration. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products that have an expiration date of longer than six months.

2023, cc. 740, 773.

§ 4.1-1603.1. Packaging and labeling; corrections; records.

A. Pharmaceutical processors shall comply with all packaging and labeling requirements set forth in this article and Board regulations.

B. No cannabis product shall be packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such cannabis product.

C. Pharmaceutical processors may correct typographical errors made on cannabis product labels and any documents generated as the result of a wholesale transaction.

2023, c. 760.

§ 4.1-1603.2. Cannabis product registration; approval, deviation, and modification.

A. A pharmaceutical processor shall register with the Board each cannabis product it manufactures. Applications for cannabis product registration shall be submitted to the Board on a form prescribed by the Board.

B. An application for cannabis product registration shall include:

1. The total tetrahydrocannabinol and total cannabidiol in such cannabis product, based on laboratory testing results for the cannabis product formulation;

2. A product name;

3. A proposed product package; and

4. A proposed product label, which shall not be required to contain an expiration date at the time of application.

C. The Board shall register all cannabis products that meet testing, labeling, and packaging standards after an application for registration is submitted. If the cannabis product fails to meet such standards or the application was deficient, the Board shall notify the applicant of the specific reasons for such failure or deficiency.

D. Within two business days of the Board's approval or deemed approval, the Board shall enter the cannabis product's national drug code number into the Prescription Monitoring Program.

E. The following cannabis product deviations from an approved cannabis product registration shall be permitted without any requirement for a new cannabis product registration or notice to the Board:

1. A deviation in the concentration of total tetrahydrocannabinol (THC) or total cannabidiol (CBD) in a cannabis product or dose thereof of up to 15 percent greater than or less than the concentration of total tetrahydrocannabinol or total cannabidiol, either or both, listed in the approved cannabis product registration; however, for a cannabis product with five milligrams or less of total THC or total CBD per dose, the total THC or total CBD concentration shall be within 0.5 milligrams of the single dose total THC or total CBD concentrations approved for that cannabis product;

2. A variation in packaging, provided that the packaging is substantially similar to the approved packaging and otherwise complies with applicable packaging requirements;

3. A deviation in labeling, including a variation made in accordance with § 54.1-3442.7:1, that reflects allowable deviations in total THC or total CBD or that makes a minor text, font, design, or similar modification, provided that the labeling is substantially similar to the approved labeling and otherwise complies with applicable labeling requirements; and

4. Any other insignificant changes.

F. A pharmaceutical processor may submit a request to modify an existing cannabis product registration in the event of a cannabis product deviation that is not set forth in subsection E. Upon receipt, the Board shall respond to such request. The Board may grant or deny the request, propose a reasonable revision, or require the pharmaceutical processor to provide additional information.

2023, c. 760.

§ 4.1-1603.3. Advertising and marketing.

A. Pharmaceutical processors and cannabis dispensing facilities may (i) advertise and promote products and operations and (ii) provide educational material to practitioners, patients, and the public.

B. Pharmaceutical processors and cannabis dispensing facilities may engage in advertising or marketing that does not:

1. Include false or misleading statements;

2. Promote overconsumption;

3. Depict a person younger than 21 years of age;

4. Appeal particularly to persons younger than 21 years of age, including by using cartoons in any way;

5. Associate cannabis products with candy or similar products or depicts any images that bear a reasonable resemblance to a candy or similar product; or

6. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the public to believe that the cannabis product is made or endorsed by the Commonwealth.

C. All advertising and marketing by pharmaceutical processors and cannabis dispensing facilities shall (i) accurately and legibly identify the pharmaceutical processor or cannabis dispensing facility responsible for its content, (ii) include a statement that cannabis products are for use by certified patients only, and (iii) comply with Board regulations.

2023, c. 760.

§ 4.1-1604. (Effective January 1, 2024) Criminal liability; exceptions.

No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be prosecuted under Chapter 11 (§ 4.1-1100 et seq.) or § 18.2-248, 18.2-248.1, or 18.2-250 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabis products, subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabis products in accordance with the provisions of this chapter and Board regulations or (ii) possessed, manufactured, or distributed such cannabis products that are consistent with generally accepted cannabis industry standards in accordance with the provisions of this chapter and Board regulations.

2023, cc. 740, 773.

§ 4.1-1605. (Effective January 1, 2024) Summary suspensions and restrictions.

A. The Board may summarily suspend or restrict a permit issued pursuant to § 4.1-1602 without a hearing if the Board finds that such suspension or restriction is necessary to prevent substantial danger to public health or safety. The Board shall make decisions to summarily suspend or restrict a permit only during an in-person meeting in which a quorum is present; however, if, after a good faith effort, the Board is unable to assemble a quorum and a majority of the Board members determine that continued operation by the permittee constitutes a substantial danger to public health or safety, the Board may summarily suspend the permit during a telephone, video, or other electronic conference. Institution of proceedings for a hearing shall be provided simultaneously with a summary suspension. The Board may summarily restrict a permit without proceeding simultaneously with notification of an

informal conference pursuant to § 2.2-4019 or Board regulations. Such hearing or conference shall be held within a reasonable amount of time after the summary suspension or restriction is issued.

B. Allegations of violations of this subtitle shall be submitted to the Board in writing.

2023, cc. 740, 773.

2023 SESSION

SB 903 Industrial hemp; regulated hemp products, etc.

Introduced by: **Emmett W. Hanger, Jr.** | **all patrons** ... **notes** | **add to my profiles**

SUMMARY AS ENACTED WITH GOVERNOR'S RECOMMENDATION: (all summaries)

Tetrahydrocannabinol; hemp products; packaging, labeling, and testing; penalties. Limits the amount of tetrahydrocannabinol (THC) that can be included in a hemp product or industrial hemp extract to 0.3 percent and two milligrams per package. The bill limits the application of such THC limits to retail sales and allows a hemp product or industrial hemp extract to contain more than two milligrams of THC if the product or extract contains an amount of cannabidiol (CBD) that is at least 25 times greater than the amount of THC; however, the bill prohibits hemp processors from selling industrial hemp or a substance containing an industrial hemp extract to a person if the processor knows or has reason to know that such person will use the industrial hemp or substance containing an industrial hemp extract in a substance that violates the aforementioned THC limits.

The bill creates a regulated hemp product retail facility registration, which carries an annual fee of $1,000, and requires persons to obtain such registration from the Commissioner of the Department of Agriculture and Consumer Services prior to offering for sale or selling regulated hemp products, as defined in the bill, or any substance intended for consumption that is advertised or labeled as containing an industrial hemp-derived cannabinoid. The bill creates certain packaging, labeling, and testing requirements for regulated hemp products and requires that topical hemp products bear a label stating that the product is not intended for human consumption. The bill provides the Commissioner with the authority to access registered regulated hemp product retail facilities and any business that offers for sale or sells at retail a substance intended for human consumption that is advertised or labeled as containing a cannabinoid for the purpose of inspections and securing samples. The bill also creates a civil penalty of up to $10,000 per day for the following violations: (i) offering for sale or selling at retail without a regulated hemp product retail facility registration a regulated hemp product or a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid; (ii) continuing to offer for sale or selling at retail a regulated hemp product after revocation or suspension of such registration; (iii) offering for sale or selling at retail a substance intended for human consumption, orally or by inhalation, that contains THC in excess of the applicable limits; or (iv) offering for sale or selling at retail a regulated hemp product that does not meet the applicable packaging, labeling, and testing requirements. The bill (a) clarifies that persons who manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract are subject to the existing food and drink permit requirement and (b)

requires such persons to indicate their intent to manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract on such permit application. The bill also creates labeling, packaging, and testing requirements for industrial hemp extracts and foods containing an industrial hemp extract.

The bill creates a civil penalty of $10,000 for the following: (1) manufacturing, selling, or offering for sale an industrial hemp extract or food containing an industrial hemp extract without a permit; (2) continuing to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (3) failing to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (4) manufacturing, selling, or offering for sale a food that contains more than 0.3 percent of THC or more than two milligrams of THC per package; (5) manufacturing, offering for sale, or selling in violation of food and drink laws or regulations a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (6) otherwise violating any provision of the Commonwealth's food and drink laws or regulations. The bill also makes it a Class 1 misdemeanor to engage in such actions, except for those set forth in clause (4). The bill makes it unlawful under the Virginia Consumer Protection Act to (A) sell or offer for sale any substance intended for human consumption that contains a synthetic derivative of THC or (B) sell or offer for sale a topical hemp product that does not include a label stating that the product is not intended for human consumption. The

bill also increases existing civil penalties for certain hemp-related violations.

The bill provides that certain regulated hemp product provisions related to retail facility registrations, packaging, labeling, and testing and associated civil penalty provisions shall become effective when the Commissioner provides notice to the Virginia Code Commission that the Department has established the registration process. The bill removes tetrahydrocannabinol from the list of Schedule I controlled substances and contains other technical amendments.

FULL TEXT

01/05/23 Senate: Prefiled and ordered printed; offered 01/11/23 23102827D pdf | impact statements

01/27/23 Senate: Committee substitute printed 23105767D-S1 pdf

02/06/23 Senate: Floor substitute printed 23106389D-S2 (Hanger) pdf | impact statements

02/13/23 House: Committee substitute printed 23106689D-H1 pdf | impact statements

02/24/23 Senate: Conference substitute printed 23107497D-S3 pdf

03/07/23 Senate: Bill text as passed Senate and House (SB903ER) pdf | impact statement

03/27/23 Senate: Governor's substitute printed 23107772D-S4 pdf | impact statement

04/12/23 Senate: Reenrolled bill text (SB903ER2) pdf

04/12/23 Governor: Acts of Assembly Chapter text (CHAP0744) pdf

AMENDMENTS

Senate subcommittee amendments and substitutes offered

Senate committee, floor amendments and substitutes offered

Senate amendments not adopted

Conference amendments

Governor's recommendation

HISTORY

01/05/23 Senate: Prefiled and ordered printed; offered 01/11/23 23102827D

01/05/23 Senate: Referred to Committee on Rehabilitation and Social Services

01/24/23 Senate: Assigned Rehab sub: Cannabis

01/27/23 Senate: Reported from Rehabilitation and Social Services with substitute (10-Y 5-N)

01/27/23 Senate: Committee substitute printed 23105767D-S1

01/27/23 Senate: Rereferred to Finance and Appropriations

02/02/23 Senate: Reported from Finance and Appropriations (11-Y 4-N 1-A)

02/03/23 Senate: Constitutional reading dispensed (38-Y 0-N)

02/06/23 Senate: Floor substitute printed 23106389D-S2 (Hanger)

02/06/23 Senate: Read second time

02/06/23 Senate: Committee substitute rejected 23105767D-S1

02/06/23 Senate: Reading of substitute waived

02/06/23 Senate: Substitute by Senator Hanger agreed to 23106389D-S2

02/06/23 Senate: Passed by for the day

02/07/23 Senate: Read second time

02/07/23 Senate: Reading of amendment waived

02/07/23 Senate: Chair rules amendment by Senator Surovell not germane

02/07/23 Senate: Ruling of Chair Sustained (20-Y 20-N)

02/07/23 Senate: Engrossed by Senate - floor substitute SB903S2

02/07/23 Senate: Constitutional reading dispensed (40-Y 0-N)

02/07/23 Senate: Passed Senate (25-Y 15-N)

02/09/23 House: Placed on Calendar

02/09/23 House: Read first time

02/09/23 House: Referred to Committee for Courts of Justice

02/13/23 House: Reported from Courts of Justice with substitute (16-Y 3-N)

02/13/23 House: Committee substitute printed 23106689D-H1

02/15/23 House: Read second time

02/16/23 House: Read third time

02/16/23 House: Committee substitute agreed to 23106689D-H1

02/16/23 House: Engrossed by House - committee substitute SB903H1

02/16/23 House: Passed House with substitute (81-Y 15-N)

02/16/23 House: VOTE: Passage (81-Y 15-N)

02/20/23 Senate: House substitute rejected by Senate (0-Y 40-N)

02/21/23 House: House insisted on substitute

02/21/23 House: House requested conference committee

02/22/23 Senate: Senate acceded to request (38-Y 2-N)

02/22/23 Senate: Conferees appointed by Senate

02/22/23 Senate: Senators: Hanger, Favola, Ebbin

02/23/23 House: Conferees appointed by House

02/23/23 House: Delegates: Kilgore, Leftwich, Herring

02/24/23 Conference: Amended by conference committee

02/24/23 Senate: Conference substitute printed 23107497D-S3

02/24/23 Senate: Conference report agreed to by Senate (22-Y 18-N)

02/24/23 House: Conference report agreed to by House (78-Y 14-N)

02/24/23 House: VOTE: Adoption (78-Y 14-N)

03/07/23 Senate: Enrolled

03/07/23 Senate: Bill text as passed Senate and House (SB903ER)

03/08/23 Senate: Signed by President

03/08/23 House: Signed by Speaker

03/13/23 Senate: Enrolled Bill Communicated to Governor on March 13, 2023

03/13/23 Senate: Enrolled Bill Communicated to Governor on March 16, 2023

03/13/23 Governor: Governor's Action Deadline 11:59 p.m., March 27, 2023

03/27/23 Senate: Governor's recommendation received by Senate

03/27/23 Senate: Governor's substitute printed 23107772D-S4

04/12/23 Senate: Amendments specific and severable (28-Y 12-N)

04/12/23 Senate: Senate concurred in Governor's recommendation (33-Y 7-N)

04/12/23 House: House concurred in Governor's recommendation (52-Y 41-N)

04/12/23 House: VOTE: Adoption (52-Y 41-N)

04/12/23 Governor: Governor's recommendation adopted

04/12/23 Senate: Reenrolled

04/12/23 Senate: Reenrolled bill text (SB903ER2)

04/12/23 Senate: Signed by President as reenrolled

04/12/23 House: Signed by Speaker as reenrolled

04/12/23 House: Enacted, Chapter 744 (effective 7/1/23)

04/12/23 Governor: Acts of Assembly Chapter text (CHAP0744)

2023 SESSION

HB 2294 Industrial hemp; regulated hemp products, etc.

Introduced by: **Terry G. Kilgore** | **all patrons** ... **notes** | **add to my profiles**

SUMMARY AS ENACTED WITH GOVERNOR'S RECOMMENDATION: (all summaries)

Tetrahydrocannabinol; hemp products; packaging, labeling, and testing; penalties. Limits the amount of tetrahydrocannabinol (THC) that can be included in a hemp product or industrial hemp extract to 0.3 percent and two milligrams per package. The bill limits the application of such THC limits to retail sales and allows a hemp product or industrial hemp extract to contain more than two milligrams of THC if the product or extract contains an amount of cannabidiol (CBD) that is at least 25 times greater than the amount of THC; however, the bill prohibits hemp processors from selling industrial hemp or a substance containing an industrial hemp extract to a person if the processor knows or has reason to know that such person will use the industrial hemp or substance containing an industrial hemp extract in a substance that violates the aforementioned THC limits.

The bill creates a regulated hemp product retail facility registration, which carries an annual fee of $1,000, and requires persons to obtain such registration from the Commissioner of the Department of Agriculture and Consumer Services prior to offering for sale or selling regulated hemp products, as defined in the bill, or any substance intended for consumption that is advertised or labeled as containing an industrial hemp-derived cannabinoid. The bill creates certain packaging, labeling, and testing requirements for regulated hemp products and requires that topical hemp products bear a label stating that the product is not intended for human consumption. The bill provides the Commissioner with the authority to access registered regulated hemp product retail facilities and any business that offers for sale or sells at retail a substance intended for human consumption that is advertised or labeled as containing a cannabinoid for the purpose of inspections and securing samples. The bill also creates a civil penalty of up to $10,000 per day for the following violations: (i) offering for sale or selling at retail without a regulated hemp product retail facility registration a regulated hemp product or a substance intended for human consumption, orally or by inhalation, that is advertised or labeled as containing an industrial hemp-derived cannabinoid; (ii) continuing to offer for sale or selling at retail a regulated hemp product after revocation or suspension of such registration; (iii) offering for sale or selling at retail a substance intended for human consumption, orally or by inhalation, that contains THC in excess of the applicable limits; or (iv) offering for sale or selling at retail a regulated hemp product that does not meet the applicable packaging, labeling, and testing requirements. The bill (a) clarifies that persons who manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract are subject to the existing food and drink permit requirement and (b) requires such persons to indicate their intent to manufacture, store, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract on such permit application. The bill also creates labeling, packaging, and testing requirements for industrial hemp extracts and foods containing an industrial hemp extract.

The bill creates a civil penalty of $10,000 for the following: (1) manufacturing, selling, or offering for sale an industrial hemp extract or food containing an industrial hemp extract without a permit; (2) continuing to manufacture, sell, or offer for sale an industrial hemp extract or food containing an industrial hemp extract after revocation or suspension of such permit; (3) failing to disclose on a form prescribed by the Commissioner that he intends to manufacture, sell, or offer for sale a substance intended to be consumed orally that contains an industrial hemp-derived cannabinoid; (4) manufacturing, selling, or offering for sale a food that contains more than 0.3 percent of THC or more than two milligrams of THC per package; (5) manufacturing, offering for sale, or selling in violation of food and drink laws or regulations a substance intended to be consumed orally that is advertised or labeled as containing an industrial hemp-derived cannabinoid; or (6) otherwise violating any provision of the Commonwealth's food and drink laws or regulations. The bill also makes it a Class 1 misdemeanor to engage in such actions, except for those set forth in clause (4). The bill makes it unlawful under the Virginia Consumer Protection Act to (A) sell or offer for sale any substance intended for human consumption that contains a synthetic derivative of THC or (B) sell or offer for sale a topical hemp product that does not include a label stating that the product is not intended for human consumption. The bill also increases existing civil penalties for certain hemp-related violations.

The bill provides that certain regulated hemp product provisions related to retail facility registrations, packaging, labeling, and testing and associated civil penalty provisions shall become effective when the Commissioner provides notice to the Virginia Code Commission that the Department has established the registration process. The bill removes tetrahydrocannabinol from the list of Schedule I controlled substances and contains other technical amendments.

FULL TEXT

01/11/23 House: Prefiled and ordered printed; offered 01/11/23 23101465D pdf | impact statements

02/03/23 House: Committee substitute printed 23106339D-H1 pdf | impact statements

02/10/23 Senate: Committee substitute printed 23106591D-S1 pdf

02/14/23 Senate: Committee substitute printed 23106859D-S2 pdf | impact statement

02/24/23 House: Conference substitute printed 23107328D-H2 pdf | impact statement

03/07/23 House: Bill text as passed House and Senate (HB2294ER) pdf | impact statement

03/27/23 House: Governor's substitute printed 23107774D-H3 pdf | impact statement

04/12/23 House: Reenrolled bill text (HB2294ER2) pdf

04/12/23 Governor: Acts of Assembly Chapter text (CHAP0794) pdf

AMENDMENTS

House subcommittee amendments and substitutes offered

House subcommittee amendments and substitutes adopted

Conference amendments

Governor's recommendation

HISTORY

01/11/23 House: Prefiled and ordered printed; offered 01/11/23 23101465D

01/11/23 House: Referred to Committee for Courts of Justice

01/28/23 House: Assigned Courts sub: Subcommittee #2

01/30/23 House: Subcommittee recommends reporting (4-Y 3-N)

01/30/23 House: Subcommittee recommends referring to Committee on Appropriations

02/01/23 House: Failed to report refer to Appropriations (defeated) in Courts of Justice (9-Y 11-N)

02/03/23 House: Reconsidered by Courts of Justice

02/03/23 House: Assigned Courts sub: Subcommittee #1

02/03/23 House: Subcommittee recommends reporting with substitute (8-Y 0-N)

02/03/23 House: Reported from Courts of Justice with substitute (17-Y 3-N)

02/03/23 House: Committee substitute printed 23106339D-H1

02/05/23 House: Read first time

02/06/23 House: Read second time

02/06/23 House: Committee substitute agreed to 23106339D-H1

02/06/23 House: Engrossed by House - committee substitute HB2294H1

02/07/23 House: Read third time and passed House (91-Y 7-N)

02/07/23 House: VOTE: Passage (91-Y 7-N)

02/08/23 Senate: Constitutional reading dispensed

02/08/23 Senate: Referred to Committee on Rehabilitation and Social Services

02/10/23 Senate: Reported from Rehabilitation and Social Services with substitute (13-Y 2-N)

02/10/23 Senate: Committee substitute printed 23106591D-S1

02/10/23 Senate: Rereferred to Finance and Appropriations

02/14/23 Senate: Reported from Finance and Appropriations with substitute (11-Y 4-N 1-A)

02/14/23 Senate: Committee substitute printed 23106859D-S2

02/14/23 Senate: Constitutional reading dispensed (40-Y 0-N)

02/15/23 Senate: Read third time

02/15/23 Senate: Reading of substitute waived

02/15/23 Senate: Committee substitute agreed to 23106591D-S1

02/15/23 Senate: Substitute from Finance and Appropriations is ruled out of order 23106859D-S2

02/15/23 Senate: Defeated by Senate (18-Y 21-N)

02/15/23 Senate: Reconsideration of defeated action agreed to by Senate (39-Y 0-N)

02/15/23 Senate: Passed by temporarily

02/15/23 Senate: Engrossed by Senate - committee substitute HB2294S1

02/15/23 Senate: Passed Senate with substitute (23-Y 17-N)

02/17/23 House: Senate substitute rejected by House 23106591D-S1 (31-Y 66-N 1-A)

02/17/23 House: VOTE: REJECTED (31-Y 66-N 1-A)

02/20/23 Senate: Senate insisted on substitute (40-Y 0-N)

02/20/23 Senate: Senate requested conference committee

02/21/23 House: House acceded to request

02/21/23 House: Conferees appointed by House

02/21/23 House: Delegates: Kilgore, Leftwich, Herring

02/22/23 Senate: Conferees appointed by Senate

02/22/23 Senate: Senators: Hanger, Favola, Ebbin

02/24/23 Conference: Amended by conference committee

02/24/23 House: Conference substitute printed 23107328D-H2

02/24/23 House: Conference report agreed to by House (85-Y 9-N)

02/24/23 House: VOTE: Adoption (85-Y 9-N)

02/24/23 Senate: Conference report agreed to by Senate (23-Y 17-N)

03/07/23 House: Enrolled

03/07/23 House: Bill text as passed House and Senate (HB2294ER)

03/08/23 House: Signed by Speaker

03/08/23 Senate: Signed by President

03/13/23 House: Enrolled Bill communicated to Governor on March 13, 2023

03/13/23 Governor: Governor's Action Deadline 11:59 p.m., March 27, 2023

03/27/23 House: Governor's recommendation received by House

03/27/23 House: Governor's substitute printed 23107774D-H3

04/12/23 House: Placed on Calendar

04/12/23 House: Pending question ordered

04/12/23 House: House concurred in Governor's recommendation (52-Y 42-N)

04/12/23 House: VOTE: Adoption (52-Y 42-N)

04/12/23 Senate: Senate concurred in Governor's recommendation (31-Y 9-N)

04/12/23 Governor: Governor's recommendation adopted

04/12/23 House: Reenrolled

04/12/23 House: Reenrolled bill text (HB2294ER2)

04/12/23 House: Signed by Speaker as reenrolled

04/12/23 Senate: Signed by President as reenrolled

04/12/23 House: Enacted, Chapter 794 (effective - see bill)

04/12/23 Governor: Acts of Assembly Chapter text (CHAP0794)