

BOARD OF AGRICULTURE AND CONSUMER SERVICES
Electronic meeting held during state of emergency due to novel coronavirus
(COVID-19)
Thursday, March 25, 2021

AGENDA

9 A.M.

1. Call to order
2. Roll call
3. Approval of draft Board meeting minutes from December 11, 2020
4. Board member reports
5. Commissioner's Report to the Board – Dr. Jewel Bronaugh, Commissioner of Agriculture and Consumer Services
6. 2021 Session of the General Assembly – Legislative Report – Kevin Schmidt, Director, Office of Policy, Planning, and Research
7. 2021 Session of the General Assembly – Budget Report – Kendra Shifflett, Director, Administrative and Financial Services
8. Proposed fast-track action to amend 2 VAC 5-560 (Rules and Regulations Pertaining to Labeling and Sale of Infant Formula) – Ryan Davis, Program Manager, Office of Dairy and Foods
9. Report on expansion of Spotted Lanternfly Quarantine (2 VAC 5-336) – David Gianino, Program Manager, Office of Plant Industry Services
10. Report from Records Subcommittee regarding release of records
11. New business
12. Future board meetings
13. Public comment period
14. Adjourn

PUBLIC PARTICIPATION

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Should any interruption of the broadcast of this meeting occur, please call 804-363-9201 or email Erin.Williams@vdacs.virginia.gov to notify the agency. Any interruption in the broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

DRAFT MINUTES

Friday, December 11, 2020

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:00 a.m. on Friday, December 11, 2020. The meeting was held by electronic communications means due to the state of emergency issued by Governor Northam as a result of the novel coronavirus (COVID-19). The meeting was held using Cisco Webex Events. President Barlow called the meeting to order.

ROLL CALL

The Board Secretary called the roll:

PRESENT

O. Bryan Taliaferro, Jr.
Donald Horsley
Clifton A. Slade
Shelley Barlow
Cecil Shell
Margaret Ann Smith
L. Wayne Kirby
Kay Johnson Smith
James S. Huffard, III
John R. Marker
Richard Sellers
Neil Houff
Charles Church
Dr. Alan Grant

Dr. M. Ray McKinnie

CONGRESSIONAL DISTRICT

1st
2nd
3rd
4th
5th
6th
7th
8th
9th
10th
11th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
Representing Dr. Timothy D. Sands, President,
Virginia Tech
Representing Dr. Makola Abdullah, President,
Virginia State University

ABSENT

None

STAFF PRESENT

Jewel Bronaugh, Commissioner, Virginia Department of Agriculture and Consumer Services
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services
Katherine Coates, Virginia Department of Agriculture and Consumer Services

APPROVAL OF MINUTES

Mr. Kirby moved that the draft minutes of the meeting on July 21, 2020, be approved as distributed.
Mr. Shell seconded the motion. The motion was approved by a unanimous roll call vote.

APPROVE: Taliaferro, Slade, Barlow, Shell, Kirby, K. Johnson Smith, Marker, Sellers, Houff, Church, Horsley, McKinnie, Grant

OPPOSE: None

REPORT FROM BOARD MEMBERS

A full recording of Board Member reports can be found at the following link:

<https://www.vdacs.virginia.gov/boards-agriculture-and-consumer-services.shtml>

Clifton Slade

Mr. Slade reported on the corn, soybean, and peanut crops in his district. He stated that moisture has created issues with the harvest and the planting of cover crops. He spoke about farmers who used the Soil and Water Conservation District and Natural Resources Conservation Service cover crop programs who were unable to get their cover crops in on time. Economically, he had his best year ever as a produce farmer, but he regrets that it was due to the COVID-19 pandemic. It has been a good season for all Virginia produce growers because COVID has resulted in a renewed movement to buy local produce and visit farmers' markets. COVID also resulted in some localities giving away food boxes that contained produce grown by local farmers. He concluded his report by sharing his experience growing hemp in 2020.

L. Wayne Kirby

Mr. Kirby reported on the status of the corn, soybean, barley, and wheat crops in his district. He noted that it has been challenging for barley and wheat producers to make money over the past few years. He stated that vegetable growers had a tremendous year and most cover crops were able to be planted in his district.

Kay Johnson Smith

Ms. Johnson Smith reported that her organization, The Animal Agriculture Alliance (AAA), announced that the AAA May 2021 Stakeholders Summit will be a virtual event. She reported on the impacts of the pandemic on residents in Arlington and Alexandria. There has been an increased need for food banks, and there is concern for the restaurant industry as winter approaches.

Richard Sellers

Mr. Sellers began his report by sharing that approximately 10 percent of Fairfax County is currently on unemployment. He reported on the operations of church and urban gardens in his region. He concluded his report by informing the Board that Fairfax County has proposed a new rule on agritourism that would allow certain operations to conduct agritourism activities.

Neil Houff

Mr. Houff reported on the corn and soybean harvest in his district. He announced that Dicamba-tolerant Engenia received U.S. Environmental Protection Agency approval for use on cotton and soybeans. He cautioned the Board that the label on Engenia is tedious and complex but is important to read. He concluded his report with an update on the fertilizer supply. He noted that there is a high demand for labor in the Valley.

O. Bryan Taliaferro

Mr. Taliaferro stated that his report is very similar to Mr. Kirby's. He reported on the soybean and corn yields in his district. Small grain acreage is down, and he will report exact numbers in the spring. He added that, due to COVID-19, there have been fewer opportunities for farmers to meet face-to-face and communicate.

Don Horsley

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Mr. Horsley reported on the soybean and corn crops in his district. He noted that planting was late in his district due to rain. He stated that it has been a great year for produce farmers and the strawberry producers in his area have had their best year ever. He added that he successfully grew and sold sweet corn and processed and sold meat from his livestock this year.

Cecil Shell

Mr. Shell reported on the corn, soybean, grain, and hay crops in his district. He stated that the weather in his area has been variable. He provided information on the situation facing tobacco farmers. They have lost many tobacco markets this year, and he noted they had to go north to find new markets. He concluded his report by sharing the success of the watermelon and sweet potato crop in his district.

John Marker

Mr. Marker reported on the weather and the corn, soybean, and apple harvests in his district. He stated that it has been one of the better years for farm markets and pick-your-own operations due to COVID-19 and the demand for socially-distanced activities. He concluded his report by sharing information about the conditions of the pasture, the hay crop, and beef prices in his district.

Margaret Ann Smith

Ms. Smith reported on the pasture conditions and hay crop in her district. She reported on the current pricing of and demand for Virginia livestock and the challenges of finding pen space. Local processors and farm-to-table folks are seeing tremendous growth and opportunities due to COVID-19. She concluded her report by noting some of the challenges of social distancing in livestock markets for employees and customers.

Dr. M. Ray McKinnie

Dr. McKinnie reported that Virginia State University (VSU) will hold a virtual graduation for the spring 2020 and December 2020 graduates on December 12. The College of Agriculture will have approximately 15 graduates. He shared that President Abdullah recently gave testimony before a Congressional subcommittee. Dr. McKinnie gave an overview on the capacity-building grants and other funding the College of Agriculture and its programs received this year. VSU was selected to present the 4-H STEM Challenge grant for a project called Mars Base Camp. He concluded the report with an update on the Small Farm Outreach program.

Dr. Alan Grant

Dr. Grant reported that Virginia Tech will hold its virtual graduation on December 18 for fall graduates. There will be approximately 120 undergraduates from the Colleges of Agriculture and Life Sciences (CALs). He discussed the challenges of the combination of face-to-face and online learning. The first week of classes for the spring semester will be all virtual before moving into a hybrid model. He noted that most CALs instruction will be face-to-face in altered classrooms. He reported on the current applications to Virginia Tech for fall enrollment and job placement for graduates. He concluded his report with updates on some recently filled staff and faculty vacancies.

James Huffard

Mr. Huffard reported on the crops in his district. The demand for milk processing has been higher than normal during the COVID-19 pandemic. He concluded his report by discussing the businesses in his community that have been severely impacted by the pandemic.

Shelley Butler Barlow

Ms. Barlow reported on the weather and cotton crop in her district. She reported on the corn, soybean, and peanut harvests and the challenging field conditions. She stated that direct-to-consumer sales have been excellent for farmers during the COVID-19 pandemic. She discussed the high demand for food assistance in her area. She concluded by thanking VDACS staff for its flexibility and creativity to get the business of agriculture done during the pandemic.

Charles Church

Mr. Church introduced himself to the Board. He stated that he is a third generation pest control operator. He reported that the Virginia Pest Management Association (VPMA) continues to provide information to its members regarding changes to VDACS regulations and changing federal Occupational Safety and Health Administration COVID-19 emergency standards. He gave an overview of VPMA activities, including virtual livestreams, webinars, and testing events. VPMA awarded two \$1,500 scholarships to students at the Dodson Urban Pest Management Lab at Virginia Tech. He concluded with a report on the virtual VPMA state technical meeting, which attracted more than 200 attendees.

COMMISSIONER'S REPORT

Commissioner Bronaugh delivered her report to the Board. During the presentation of this report, she briefed the Board on personnel changes, recent events, and other matters relating to VDACS and the COVID-19 state of emergency. A copy of the written report on which her presentation was based was included in the Board meeting agenda.

PESTICIDE CONTROL FUND REPORT TO THE BOARD

President Barlow called on Larry Nichols, Director, Division of Consumer Protection. Mr. Nichols presented the Board with a review of the Pesticide Control Fund Report. Mr. Nichols and Ms. Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services responded to Board member questions related to the report. Included in the presentation was a recommendation that the regulatory advisory panel be reconvened for 2 VAC 5-675, Regulations Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Services.

APPOINTMENT OF REGULATORY ADVISORY PANEL FOR 2 VAC 5-675 (REGULATIONS GOVERNING PESTICIDE FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES)

Mr. Nichols presented the Board with the proposed appointments to the reconvened Regulatory Advisory Panel for 2 VAC 5-675, Regulations Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Services.

Mr. Shell moved that the Board of Agriculture and Consumer Services approve the creation of a regulatory advisory panel for the purpose of assisting the Board in reviewing the fee amounts established in 2 VAC 5-675, Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services. The regulatory advisory panel consists of the following members:

- Shelley Barlow

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- Neil Houff
- Charles Church
- Kyle Shreve or representative from Virginia Agribusiness Council
- Wilmer Stoneman or representative from Virginia Farm Bureau Federation
- Kevin Kordek or representative from Virginia Pest Management Association
- Representative from Virginia Crop Production Association
- Representative from CropLife America
- Representative from Responsible Industry for Sound Environment

Ms. Kay Johnson-Smith seconded the motion. The Board voted unanimously to approve the motion.

APPROVE: Taliaferro, Slade, Barlow, M. Smith, Kirby, K. Johnson Smith, Huffard, Marker, Sellers, Houff, Church, Horsley, Grant, McKinnie

OPPOSE: None

FAST-TRACK REGULATORY ACTION TO REPEAL 2 VAC 5-325 (REGULATIONS GOVERNING PINE SHOOT BEETLE)

President Barlow called on David Gianino, Program Manager, Office of Plant Industry Services. Mr. Gianino briefed the Board on the proposed fast-track regulatory action to repeal 2 VAC 5-325.

Following Mr. Gianino's presentation, Mr. Taliaferro moved that the Board of Agriculture and Consumer Services repeal 2 VAC 5-325, Regulations Governing Pine Shoot Beetle, as presented by staff and that the Board authorize staff to take any and all steps necessary to repeal this regulation through a fast-track regulatory action.

Mr. Houff seconded the motion. The Board voted unanimously to approve the motion.

APPROVE: Taliaferro, Slade, Barlow, M. Smith, Kirby, K. Johnson Smith, Huffard, Marker, Sellers, Houff, Church, Horsley, Grant.

OPPOSE: None

NOTICE OF INTENDED REGULATORY ACTION – 2 VAC 5-105 (REGULATIONS GOVERNING THE KEEPING OF DOGS AND CATS BY ANY PET SHOP)

President Barlow called on Dr. Charles Broaddus, State Veterinarian and Director of the Division of Animal Food and Industry Services. Dr. Broaddus provided a brief overview of 2 VAC 5-105. Dr. Broaddus then called on Dr.Carolynn Bissett, Program Manager, Office of Veterinary Services. Dr. Bissett briefed the Board on the proposed Notice of Intended Regulatory Action for 2 VAC 5-105.

Following Dr. Bissett's presentation and questions from Board members, Mr. Shell moved that the Board of Agriculture and Consumer Services authorize staff to take any and all steps necessary to file a Notice of Intended Regulatory Action for 2 VAC 5-105, Regulations Governing the Keeping of Dogs and Cats by Any Pet Shop, for public comment.

Mr. Huffard seconded the motion. The Board voted unanimously to approve the motion.

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APPROVE: Taliaferro, Slade, Barlow, M. Smith, Kirby, K. Johnson Smith, Huffard, Marker, Sellers, Houff, Church, Horsley, Grant.

OPPOSE: None

PROPOSED ESTABLISHMENT OF THE VIRGINIA PRODUCE SAFETY CIVIL PENALTY MATRIX

President Barlow called on Erik Bungo, Program Supervisor, Produce Safety Program. Mr. Bungo briefed the Board on the proposed establishment of the Virginia Produce Safety Civil Penalty Matrix.

Following his presentation and questions from Board members, Mr. Huffard moved that the Board of Agriculture and Consumer Services adopt the proposed Virginia Produce Safety Civil Penalty Matrix as presented by staff and that the Board authorize staff to take any and all steps necessary to publish and receive public comment on this proposed civil penalty matrix.

Mr. Church seconded the motion. The Board voted unanimously to approve the motion.

APPROVE: Taliaferro, Slade, Barlow, M. Smith, Kirby, K. Johnson Smith, Huffard, Marker, Sellers, Houff, Church, Horsley, Grant.

OPPOSE: None

REQUEST FOR RELEASE OF RECORDS – JASON GRIM, INTERFLEX

President Barlow called on Erin Williams, Senior Policy Analyst. Ms. Williams presented the Board with a broad overview of the Virginia Freedom of Information Act (FOIA) and Va. Code § 3.2-103, which requires VDACS to hold certain records in confidence unless otherwise directed by the Board or the Governor. Ms. Williams reviewed the details of Mr. Grim's request, and Lamont White, Processing Specialist, Office of Food Distribution, provided additional details pertaining to the records held in confidence by VDACS. Justin Bell, Assistant Attorney General, Office of the Attorney General and Counsel to the Board, answered Board member questions and provided instructions regarding the various responses available to the Board.

Following Mr. Bell's instructions, Mr. Grim presented the Board with information on his request and Interflex and answered Board member questions.

Following discussion by the Board members and additional comments from Mr. Bell, a straw poll was conducted to see if Board members were sure or unsure if they had enough information to make a decision at this time. The Board voted unanimously that they were unsure if they had enough information to make a decision.

SURE: None

UNSURE: Taliaferro, Slade, Barlow, Smith, Kirby, K. Johnson Smith, Huffard, Sellers, Houff, Church, Horsley, Grant

Following the straw poll, Mr. Grim rescinded his request for records. The Board formed a subcommittee to further consider the issue and to meet with Mr. Grim to better understand his

request and the Interflex system. The following Board members volunteered to serve on the subcommittee:

Ms. Johnson Smith
Mr. Huffard
Mr. Sellers
President Barlow

The subcommittee will report back to the Board at the March 2021 meeting.

NEW BUSINESS

No new business was introduced.

FUTURE BOARD MEETINGS

President Barlow announced that the tentative Board meeting dates for 2021 will be March 25, May 20, and December 10 in Richmond. A summer meeting will be added at a later date.

PUBLIC COMMENT PERIOD

There was no public comment

ADJOURNMENT

There being no further business, the Board adjourned at approximately 12:59 p.m.

Respectfully submitted,

Shelley Barlow
Board President

Kevin Schmidt
Board Secretary

COMMISSIONER'S REPORT TO
BOARD OF AGRICULTURE AND CONSUMER SERVICES
March 25, 2021

PERSONNEL NEWS

In January, President Joe Biden nominated Commissioner Bronaugh to serve as Deputy Secretary of the U.S. Department of Agriculture (USDA). Pending confirmation by the U.S. Senate, Commissioner Bronaugh will become the first African American Deputy Secretary of Agriculture. Governor Northam appointed Commissioner Bronaugh to serve as the 16th Commissioner of VDACS in 2018. She was previously Executive Director of the Center for Agricultural Research, Engagement, and Outreach at Virginia State University (VSU). She also served as State Executive Director of the USDA Farm Service Agency and as Dean of VSU's College of Agriculture. Dr. Bronaugh holds a bachelor's degree in Education from James Madison University. She earned a master's degree in Education and a doctorate in Career and Technical Education from Virginia Tech. The Commonwealth has been fortunate to benefit from Commissioner Bronaugh's outstanding leadership at VDACS these past three years and in other important roles throughout her entire career in Virginia.

Michael Talley was selected as the Director of Information Systems in the Office of Administrative and Financial Services, Mike replaces Cathy Nott, who recently retired from the agency. Mike began his career at VDACS as a student intern providing computer support. For the past 13 years, he has held a variety of positions with the Virginia Commonwealth University School of Dentistry, including Assistant Information Systems Director and Enterprise Applications Director. Mike holds a M.S. in Information Systems from Virginia Commonwealth University.

The Office of Laboratory Services continues to operate the VDACS Regional Animal Health Laboratory System, with labs in Warrenton, Harrisonburg, Lynchburg, and Wytheville, with State Veterinarian Charles Broaddus serving as Acting Program Manager. The search is ongoing to fill the Program Manager position, which was vacated last June with the passing of Dr. Joe Garvin. The agency continues to search for a candidate who is an exceptional manager and technical expert in the field of veterinary diagnostics and can lead the lab system to best support the agricultural health and other related testing needs in the state.

JoAnn Connell was selected as the Program Manager of the Office of Meat and Poultry Services (OMPS). JoAnn began her new role on January 10. JoAnn has been with VDACS for 27 years and has held several job titles within OMPS. She began her career with VDACS as a field inspector and was promoted to the position of Inspection Manager in 2019. JoAnn was the first employee to hold the Enforcement Investigation and Analysis Officer (EIAO) position for the program. Prior to working for OMPS, JoAnn managed a meat processing and slaughter facility for eight years.

Sara Santa Cruz was selected as the Virginia Food Access Investment Fund (VFAIF) Coordinator. Sara has an extensive background in domestic and international food systems work. Over the past 10 years, Sara has worked in different spheres of the food and agriculture sector, from farming and production to food security and public health programming. Prior to working at VDACS, Sara earned her M.A. in Applied Geography from the University of Colorado at Colorado Springs, served as an agroecology

and food security advisor in Madagascar, and worked with refugee gardeners in the agriculture and food security branch at the International Rescue Committee.

GOVERNOR'S PRIORITIES

Since December 2020, Governor Northam has announced four new Agriculture and Forestry Industries Development (AFID) Fund facility grants totaling \$385,000. These projects represent \$12,138,768 in new capital investment, 111 new jobs (89 full-time and 22 full-time equivalent positions), and commitments for the purchase of \$27,387,398 of Virginia-grown agriculture and forestry products. The grants were awarded to (i) Rockingham County for Pure Shenandoah, (ii) Russell County for Rambler Staves, (iii) Rockingham County for Smiley's Ice Cream, and (iv) Arlington County for Fresh Impact Farms. To date, 101 AFID Fund facility grants have been successfully awarded to 64 localities across Virginia.

Since December, Governor Northam has announced six new AFID Fund planning grants totaling \$112,000. The grants were awarded to (i) Charlotte County to support its diversifying agricultural sector by providing administrative support and equipment upgrades to the Southside Virginia Fruit and Vegetable Producers Association, a group of small and minority-owned farmers working collectively to aggregate and market produce; (ii) Fauquier County to conduct a feasibility study for a new farmers' market and assess the need for a year-round farmers market; (iii) Grayson County to create investor recruitment materials to locate a facility for high-value, pathogen-free sheep to be used for biomedical research; (iv) Page County for the Fresh Food Project, which will connect local farmers with local consumers and tourists to strengthen the region's food system and identify market opportunities for mid-size producers; (v) Pulaski County for a business plan and kitchen design for the Lena Huckstep Community Kitchen; and (vi) Roanoke County to support the growth of plant stock for medicinal agro-forestry products at the Catawba Sustainability Center. To date, 48 AFID Fund planning grants have been awarded totaling \$968,232 to 62 localities across Virginia.

The Virginia Farmland Preservation Fund's fiscal year 2021 grant round closed on December 18, 2020, with \$270,000 available in funding. In February, the following five localities were awarded \$54,000 each: the counties of Albemarle, Clarke, Fauquier, and Stafford and the City of Chesapeake. To date, the Virginia Farmland Preservation Fund has provided \$12,471,969 in matching funds for 108 easements in 16 localities, protecting a total of 14,473 acres.

The Virginia Farm Bureau Foundation (VFBB) and Tamarack Media, a web developer, continue to work with VDACS staff on an update to the Virginia Farm Link website. Because of the COVID-19 pandemic, the launch of the site was delayed until March 2021. VDACS staff and VFBB staff are planning a soft launch in March with a full launch in April, beginning with a presentation at the Virginia United Land Trusts annual Land Conservation and Greenways Conference in April.

In December, VDACS staff worked with the Department of Forestry (DOF) to execute a Memorandum of Understanding with the American Farmland Trust to acquire its "Farms Under Threat" data. This data maps highly productive farmland and farmland that is at threat of conversion to non-agricultural uses. Upon receipt of the data, Secretary Ring and VDACS will host listening sessions with agricultural producers to verify the accuracy of the data before incorporating it into a map of conservation priorities for the Secretariat.

In September 2019, Governor Ralph Northam established the Office of Diversity, Equity and Inclusion (DEI), which is led by Chief Diversity Officer, Dr. Janice Underwood. VDACS currently serves as one of six state agencies that volunteered to participate in the pilot for the “One Virginia Plan,” a key initiative of the DEI Office. To help lead VDACS participation within the One Virginia Plan, the Commissioner’s Office is establishing a VDACS DEI Council. The DEI Council, which will be created this spring, will work to ensure that VDACS is a welcoming and inclusive workplace where everyone can learn from each other and each person within the agency feels valued and respected. Before this important work can begin, VDACS must determine how its employees perceive issues of diversity, equity, and inclusion within the agency. Therefore, the first official effort towards establishing the council was surveying VDACS’s employees to gather their thoughts and experiences. This survey concluded in February, and the survey data is currently under review.

The Virginia Food Access Investment Fund (VFAIF) inaugural grant application process opened December 18, 2020, after the VFAIF Equitable Food-Oriented Development (EFOD) stakeholder group finalized its program guidelines. EFOD aligns food and economic development models and seeks to build community power and wealth with a focus on underserved and marginalized communities. The VFAIF and VFAIF Program were established in 2020 upon the enactment of Chapters 956 and 957 of the 2020 Acts of Assembly. The Program focuses on equity and justice in local food systems by investing in new or expanding existing food retailers to address food access issues in the Commonwealth. The Fund will provide grants for the construction, rehabilitation, equipment upgrades, or expansion of grocery stores, small food retailers, or innovative food retail projects in underserved communities. The Fund received \$1.25 million in nonreverting funds as of July 1, with \$400,000 available for grant awards in fiscal year (FY) 2021 and approximately \$400,000 for FY 2022. Grant requests can range from \$5,000 to \$50,000. A Program Coordinator was hired in January and is working on marketing and outreach for the program while developing the needed administrative documents and processes. The FY 2021 grant application deadline is April 30. Decisions will be made in May, and grant recipients will be notified of their award in June.

Total number of active industrial hemp registrations, as of March 5, 2021:	
Industrial Hemp Grower Registrations	893
Industrial Hemp Processor Registrations	262
Industrial Hemp Dealer Registrations	139

In February, staff from the Office of Policy, Planning, and Research (OPPR), the Division of Marketing and Development (DMD), and Office of Plant Industry Services (OPIS) participated in the fourth annual Industrial Hemp Summit, which was held virtually and cohosted by the Institute for Advanced Learning and Research and the Southeast Hemp Association. OPPR staff participated on a panel with hemp regulators from North Carolina, South Carolina, and Tennessee and provided an update on Virginia's plan to continue to regulate hemp production pursuant to the 2014 federal Farm Bill's authority for hemp agricultural pilot programs. The topics discussed throughout the Summit included hemp product regulation; the need for continued hemp research; and opportunities and challenges in the fiber, grain, and floral hemp markets.

At the end of February, the VDACS Food Safety Program had completed the inspections of 19 Registered Industrial Hemp Processors that are manufacturing industrial hemp-derived extracts intended for human consumption throughout the state. Four additional Registered Industrial Hemp Processors currently have pending applications to be inspected as manufacturers of industrial hemp-derived extracts intended for human consumption.

AGENCY OPERATIONS

Commissioner's Office

In December, Commissioner Bronaugh and Office of Agriculture and Forestry Development (OAFD) staff participated in a virtual meeting on land conservation efforts and priorities in Virginia. The meeting was convened by Virginia United Land Trusts and the Virginia Conservation Network and covered topics of soil health, mitigation, solar siting, and carbon sequestration. Secretary of Agriculture and Forestry Ring, Deputy Secretary of Agriculture and Forestry Copenhaver, Assistant Secretary of Agriculture and Forestry Hertz, and State Forester Farrell all participated in the meeting and spoke to the Secretariat's efforts in conservation.

In January, Commissioner Bronaugh and OAFD staff presented on the VFAIF program as part of the Food System Financing in Virginia webinar series co-hosted by Virginia Community Capital and Virginia Foodshed Capital. The presentation focused on the program development, guidelines, and criteria for eligibility of the VFAIF program. Approximately 90 people from diverse industries, including funders, foundations, not-for-profits, businesses, and municipalities, registered to learn more about the program and eligible projects.

In January, Commissioner Bronaugh, the DMD Director, OAFD staff, and staff from the Virginia Housing Development Authority spoke with members of the Brown family, who shared their vision and sought to learn about relevant resources for their approximately 75 acres of family-owned farmland in Prince George and Dinwiddie counties. The family envisions creating a community that would be anchored by senior housing and that would also be home to a woman's shelter and an organic farming operation. Commissioner Bronaugh recommended relevant contacts in the City of Petersburg whose organization has undertaken a similar endeavor as well as several other possible resources, including the new VFAIF and the Planning Grant Program of the Governor's AFID Fund. Agency staff also provided links to additional resources in a follow-up email.

In January, Commissioner Bronaugh and Deputy Commissioner Green attended the Virginia Agricultural Council Vision 2021 Virtual Celebration. The event included breakout sessions on agritourism, agronomic tools, forestry, the Chesapeake Bay, labor, and rural broadband. Even though the event was held virtually, it allowed agriculture stakeholders from around the state to engage, network, and discuss important issues in advance of the 2021 Session of the General Assembly.

In February, Commissioner Bronaugh and Deputy Commissioner Green virtually attended the National Association of State Departments of Agriculture (NASDA) Winter Policy Conference. NASDA is a nonpartisan, nonprofit association that represents the elected and appointed commissioners, secretaries, and directors of the departments of agriculture in all 50 states and four U.S. territories. The theme of

the meeting was "Together at the Table," with discussions including promoting diversity and inclusiveness in the industry. Recently confirmed USDA Secretary Tom Vilsack was one of the conference's keynote speakers. Attendees also discussed improving resiliency in the nation's food system to better handle emergencies such as COVID and climate change. Additionally, rural broadband access was a key topic, as lack of rural broadband has created a number of challenges for rural Americans struggling to work from home or attend school virtually.

In March, approximately 20 VDACS staff members participated in Virginia Agriculture Literacy Week by reading to preschoolers and elementary school students from across the state. This year's book, *How Did That Get in My Lunchbox?* by Chris Butterworth, is full of farm to lunchbox information that educated and entertained preschool and elementary school students. While participating staff members could not physically visit schools to read, they still took part in the event by conducting a virtual reading and then donating the book to the school.

Division of Marketing and Development (DMD)

DMD is currently requesting applications for the FY 2021 Specialty Crop Block Grant Program (SCBGP). Projects will be reviewed, selected, and modified as necessary and compiled into one submission (the State Plan) to USDA. These grant funds are awarded to projects that enhance the competitiveness of specialty crops. In addition to the approximately \$500,000 in FY 2021 Specialty Crop Block Grant Program funds already allocated to Virginia in the federal Farm Bill, VDACS will have approximately \$700,000 in additional funding allocated by the federal Consolidated Appropriations Act of 2021 to the SCBGP for projects that may focus on COVID-19 relief for Virginia's specialty crop industry. Applications are due April 1, and the selected projects will begin October 1, 2021.

The Office of Food Distribution (OFD) reported that Virginia will receive \$6,347,242 in additional USDA funding through the federal Coronavirus Response and Relief Supplemental Appropriations Act for the Emergency Food Assistance Program. This money will be used to supply the seven Virginia Food Banks with food to distribute to people in need due to COVID-19. This amount is in addition to the regular funding received for this program.

In January and February, OFD held five virtual training sessions for school nutrition directors to educate them on various aspects of the National School Lunch Program. The sessions included a training for new directors, trainings on ordering USDA foods, and a training on further processing USDA foods into finished products. A total of 352 people participated in the trainings.

Market News reports that many Virginia commodities have made recent improvements following the initial losses from the COVID-19 pandemic but cattle prices are still struggling to recover. Several livestock sales in early and mid-February have been canceled or rescheduled due to inclement weather. There are several factors influencing the decline in cattle prices, including high national cattle inventories and lower food service demand. The recent increases in grain prices are also seen as a negative for livestock producers as it increases the cost of feed. Grain prices continue to be high. The price advances are primarily a result of high levels of export sales to China (soybean and corn exports are near record highs to China), lower production in South America, good domestic demand, and

relatively low domestic and world supplies.

Below is a summary of commodity prices as of February 12, 2021, compared to late February 2020:

Percentage of Price Decrease from February 2020 to February 2021	
Feeder Cattle	5 percent
Slaughter Cattle	1 percent

Percentage of Price Increase from February 2020 to February 2021	
Corn	44 percent
Soybeans	59 percent
Wheat	19 percent
Hogs	33 percent
Cotton	46 percent
Broilers	8 percent

Market News reports that African Swine Fever (ASF) continues to impact hog market conditions. China is working to rebuild its pig herds after devastating losses from ASF in 2018 and 2019 but has recently reported losses due to a new strain of the virus that is less deadly but is still having an impact on China's pig herd recovery. The emergence of ASF in Germany has been significant because Germany is the largest pork producer in Europe and a key supplier of pork to China. The first reported case in Germany was found in a wild boar on September 10. As of January 20, there were 544 confirmed cases; all in wild animals with no domestic farm pigs affected. China, Japan, and South Korea banned German pork imports in September, which improved export potential for U.S. hogs. U.S. pork exports in 2020 were up 11 percent compared to 2019, with sales to China up over 50 percent during the same period. Between September 2020 and February 2021, hog prices in the U.S. have increased approximately 45 percent and are 33 percent higher than last February.

In February, Market News published the first Hay Clearing House newsletter of the year. The publication serves as a tool to bring together buyers and sellers of hay and is particularly effective in helping livestock producers locate hay during times of shortages. Hay Clearing House includes listings of hay sellers and buyers and also has a section with historical hay prices from the Rushville Hay Auction. Market News continues to receive positive feedback from producers about the effectiveness of the Hay Clearing House newsletter as their primary marketing tool. This year is the 30th year Virginia Market News Service has published the newsletter.

In February, Office of Promotions (OP) staff began planning the 2022 Virginia Food and Beverage Expo (Expo) as an in-person event on March 28-30, 2022. The 2022 Expo will have an expanded footprint and take place in a larger section of the Greater Richmond Convention Center to allow for social distancing as needed. OP is working with VDACS Office of Procurement on a purchase order for event planner Creative Engagement Solutions (CES) so that CES can begin working on details of the event immediately.

OP will host a second series of Virtual Trade Shows in April. The first series of the Virtual Trade Show took place in fall 2020 and included four total sessions, each featuring a different category of Virginia food and beverage companies. Product samples were provided to registered buyers in advance of the show dates to facilitate the tastings. The four categories included baked goods, snacks and sweets, non-alcoholic beverages, and condiments. The Virtual Trade Show was developed in partnership with CES, the same event company that the agency contracted with for the 2020 Virginia Food & Beverage Expo. The second series of the trade show will feature products in the following four categories: dairy, deli, sweets, and snacks. Exhibitor registration is now closed with fully booked sessions and waiting lists. Rodgers Pudding, Edwards Virginia Smokehouse, Joy E Bells, Birdie's Pimento Cheese, Locksley Farmstead Cheese, The Perfect Pita, and Honeycakes will participate in the dairy, deli, and baked goods session. Jody's Popcorn, Don't Forget The Cake, PIZOOTZ, Bakefully Yours, PastryBase, Clean Conscience Chocolates, and Belmont Peanuts will participate in the snacks and sweets session. Buyer recruitment began March 8.

From December 2020 through February 2021, Office of Domestic Marketing (ODM) staff conducted a total of 10 board meetings for the following Virginia commodity boards: the Virginia Apple Board, Horse Industry Board, Cattle Board, Corn Board, Cotton Board, Marine Products Board, Peanut Board, Potato Board, Soybean Board, Wine Board, and the new Spirits Board. In accordance with Governor Northam's Executive Order 73, all board meetings were held virtually with staff providing additional assistance and guidance on the adoption of new virtual meeting formats. The boards considered proposals for research, education, and promotional proposals for funding. The FY 2020 annual reports for all commodity boards are also now available for your review on VDACS's webpage: <https://www.vdacs.virginia.gov/boards-virginias-agricultural-commodity-boards.shtml>

In January, OP and ODM staff compiled an extensive listing of farmers' market staff and farmers' market farmer vendors for outreach regarding COVID-19 vaccinations and safety protocols for use by health district offices and staff. This action was in response to a request from the Virginia Department of Health to provide a list of farmers and markets located in the health districts of Mount Rogers, Cumberland Plateau, and Leonwisco (southwest Virginia). DMD staff worked together to identify farms and their contact information in the requested areas using resources such as the Virginia Grown database, the Shippers Directory, farmers' market listings, and state and local agricultural organizations. After identifying the farms in these areas and cleaning the data, staff compiled a comprehensive list of 175 farms sorted by health district in response to the request.

In January and February, ODM staff presented the 2021 Tobacco Situation and Outlook at six Virginia tobacco production meetings in cooperation with the Virginia Cooperative Extension (VCE). Due to COVID-19 restrictions, the traditional meeting format was replaced with a drive-in format, during which growers remained in vehicles and listened to presentations over FM radio. VCE agents and specialists presented information on variety selection, disease management, budget, and agronomy. ODM provided information on the Virginia Department of Labor and Industry's COVID-19 Emergency Standard, Virginia Tobacco Board funding, the European Union's 25 percent tariffs on tobacco, and current General Assembly bills that are pertinent to tobacco growers. Approximately 256 total growers and tobacco industry representatives attended the six meetings.

In January, ODM staff attended the virtual annual meeting of the Southern Cotton Growers (SCG) to participate in the General Sessions and to receive the Cotton Economic and the Cotton Council

International updates. Cotton Council International (CCI) reported the top cotton competition is now Brazil. CCI conducted all of its 2020 meetings virtually but plans to offer hybrid meetings in 2021 to drive U.S. cotton exports. The SCG presented a federal update, U.S. Cotton Trust Protocol information, a tax update, and general association information for the 2021 year. Cotton acreage across the Southeast states predicts a decrease in acres due to strong grain prices.

In February, ODM staff helped to organize and participated in the Virginia Farm to University: Equitable Pathways Webinar hosted by VCE and the University of Virginia's Sustainable Food Collaborative. The webinar featured panelists from Virginia State University's Small Farm Outreach, 4P Foods, and the Local Food Hub, who discussed creating equitable opportunities for Black and Brown farmers in Virginia's university food supply chains, building the capacity of Virginia's Black and Brown food producers, and considering potential tools to increase farmers' access to university markets. More than 75 people representing university dining, distributors, government agencies, and Virginia farms participated in the webinar.

In January and February, ODM staff assisted with and participated in the Food Lion/Produce Source Partners (PSP) local Virginia Grown produce grower meeting and buyer tour. Food Lion is planning to expand its local produce offerings in 2021 in over 210 Food Lion stores across Virginia. The meeting included 25 growers from across Virginia. The DMD Director and DMD Deputy Director also met with the Food Lion local produce sourcing manager and the PSP local origination manager during a buyer tour with Greenswell Growers in February. Greenswell Growers' new greenhouse in Goochland will include a 77,000 square foot facility that includes 57,000 square feet of production space for greenhouse lettuces and greens and 20,000 square feet for office and packing space. Greenswell plans to complete construction this spring, with operations beginning in June 2021.

In February, ODM staff led virtual industrial hemp meetings with two prospective industrial hemp processors to provide information on Virginia's industrial hemp production, potential grower interests, and an overview of the USDA Hemp Final Rule. VCE staff also provided information on hemp agronomic research trials, insect pest management, and weed management.

In February, ODM staff participated in the statewide Virginia Fruit School, which was held virtually. Researchers from Virginia Tech reviewed information on pathology, entomology, and production practices with participants. Each session included a grower panel that discussed COVID-related impacts and lessons learned. Topics for these panels included packing houses, retail markets, worker housing, and agritourism. ODM staff provided an update on the upcoming Virginia Apple Board election. Between 75 and 85 participants attended each day of the event.

In January, DMD staff developed and hosted a booth at the virtual edition of the Mid-Atlantic Nursery Trade Show (MANTS). MANTS has been held annually since 1971 and is known as the "Masterpiece of Trade Shows." It draws exhibiting companies and attendees from the U.S., Canada, Europe, Australia, Japan, and Asia. The show is typically held in February in Baltimore, Maryland, but was held virtually this year due to COVID-19. Saunders Brothers (Piney River), a Virginia nursery, participated with four other nurseries in sessions titled American Beauties Native Plants and Join the Boxwood Revolution with NewGen, which offered information on plant material and ways to increase plant sales. Following the event, Office of International Marketing (OIM) staff worked with the Canada trade representative to develop trade leads with Canadian MANTS participants.

In December 2020, the China trade representative conducted an e-commerce promotion for scallops from Chesapeake Bay Packing. Following the promotion, the China trade representative provided the final report on the activity. The initial order from the Chinese seafood importer was for 220 pounds of scallops. The promotion utilized two e-commerce platforms in China, Kuai Xian Lian and Kuai Xian Mai Yu. Three social media influencers who focus on tourism and gourmet food promoted the scallops via their social media accounts. Scallop recipes were developed by the influencers and posted along with an introduction to scallops and the Virginia seafood industry. These posts were shared on Weibo, one of the biggest social media platforms in China. Combined, these three social media influencers were able to generate nearly 12 million impressions. During the two week e-commerce promotion, the entire 220 pounds of scallops was sold via the two online sales outlets.

Earlier this year, OIM staff and the Canada trade representative introduced five Virginia wineries to Canadian wine agent DB Wine and Spirits. The Virginia wineries included Horton Vineyards, Veritas Vineyard & Winery, Pearmund Cellars, Paradise Spring Vineyards, and Breaux Vineyards. Ultimately the agent selected three wines from two Virginia wineries to submit for tasting to the Liquor Control Board of Ontario (LCBO). Pearmund Cellars Old Vine Chardonnay and Veritas Vineyards True Heritage Red Blend were ultimately accepted by the LCBO. At this point, the LCBO will likely order one to two pallets of each product. Although the order will be small, this is a significant step in the Canadian market for Virginia wines. The Virginia Wine Marketing Office will support the wines by placing an ad in the LCBO Food and Drink magazine. Once all details are confirmed, the trade representative will contact the LCBO marketing team to see what other digital marketing programs are available. LCBO retails and distributes alcoholic beverages throughout the province of Ontario and is similar to Virginia's Alcoholic Beverage Control Board. LCBO is one of the world's largest purchasers of alcoholic beverages, with \$5.89 billion Canadian dollars in sales reported in 2016-2017. LCBO imports from more than 80 countries and carries approximately 24,000 products from around the world.

The Southeast Asia trade representative and OIM staff assisted the Turman Wood Group during its presentation for a forestry webinar in Indonesia hosted by the organizer for the International Furniture Manufacturing and Components trade show that will take place in person in October 2021. The webinar was attended by more than 250 Indonesian participants ranging from furniture manufacturers, importers, designers, and students. There were many questions relating to wood sustainability and applications for the Turman Wood Group after its presentation.

In January, the Southeast Asia trade representative and OIM staff participated in Agricultural Supply Chain Asia 2021, a virtual conference organized by the U.S. Soybean Export Council and the U.S. Grains Council. The conference featured a distinguished panel of subject matter experts and industry thought leaders who shared their knowledge, outlook, and viewpoints on the market and the opportunities and challenges ahead. VDACS hosted a virtual booth space at the show that featured information on Virginia soybean suppliers, container sites, and the Port of Virginia. During the virtual conference, the trade representative contacted soybean buyers from Southeast Asia and invited them to visit the VDACS booth to learn more about Virginia soybean suppliers. As a result of participation in the event, OIM staff received several inquiries to connect importers with Virginia suppliers of soybeans and other commodities. During the conference, the trade representative connected OIM staff with Vitarich Corporation Philippines, a company that expressed interest in finding sunflower meal suppliers

in Virginia. The trade representative has also scheduled a follow-up conversation with a potential buyer of soybean meal from the Philippines.

In February, the Latin America trade representative reported that Virginia apples from Crown Orchards (Covesville) are now available in the Dominican Republic. The apples were imported by Grupo Ramos and are being sold through its distribution network and through Supermercados Bravo. The apples have been well received and are selling well.

OIM staff continues to recruit Virginia exporters to apply for State Trade Expansion Program (STEP) grant funds administered by the Virginia Economic Development Partnership (VEDP). STEP is a federal program that provides financial awards to state and territory governments to assist small businesses with export development. In addition to Frondita Biogroup (Henrico), an exporter of feed additives that was recently awarded \$6,000 in STEP funds, Clark + Hopkins (Stephens City), maker of hot sauces, has been approved for \$6,000 of STEP funds that will be used for digital media promotion with a new Canadian distributor. Feridies Peanuts (Courtland) is also in the process of being approved for \$10,000 in STEP funds, some of which will be used to develop labels for the Canadian market, which will allow the company to expand its peanut product line in Canada.

Division of Commodity Services (DCS)

Since December 12, 2021, Division of Commodity Services (CS) staff:

- Inspected and certified grain commodities including soybeans, sorghum, wheat, soybean meal, and soybean hull pellets with a total value of more than \$705 million destined for 25 countries;
- Conducted six Grain Law compliance visits;
- Conducted General Market Inspections on 200,369 pounds of fresh fruits and vegetables and Processed Food Inspections on over four million pounds of processed products;
- Performed three Good Agricultural Practice (GAP) Audits for Virginia fruit and vegetable growers;
- Inspected and certified approximately 209.9 million pounds of Farmers' Stock peanuts and regrades, approximately 51.6 million pounds of shelled and in-shell milled peanuts, and over 2.08 million pounds of imported peanuts from Argentina;
- Analyzed approximately 1,473 samples of peanuts for the presence and levels of aflatoxin to determine if the peanuts were safe for human consumption;
- Certified over 2.58 million pounds of various poultry parts for the USDA Feeding Program for School Lunch Products;
- Graded, via contracted full-time grading services, approximately 53.1 million pounds of chicken and 16.58 million pounds of turkey for the Virginia poultry and egg industry;

- Provided non-contract fee grading and certification services for approximately 798,400 pounds of poultry based on U.S. Consumer Grades to fulfill necessary specifications and contract requirements for the Virginia poultry and egg industry;
- Provided evaluation services for producers on approximately 25,331 live cattle, 88 lambs and goats, and 256 beef carcasses;
- Provided evaluation services to producers who marketed over 5,891 Virginia Quality Assured (VQA) feeder cattle. The VQA program is established by the Virginia Cattlemen's Association and is considered one of the most recognized and valuable programs to producers and buyers; and
- Performed a total of four USDA Food Defense Audits at U.S. Cold Storage in Harrisonburg, Tyson in Glen Allen, George's in Edinburg, and George's in Harrisonburg to ensure that plants producing commodity and school lunch poultry products have measures in place to ensure a safe product.

CS staff received a grading request from the newly opened Monterey Livestock Yards (MLY) in Highland County. Double J Livestock in Dayton recently acquired MLY and has been updating the market and making repairs. Double J is working with the Highland Bath Cattlemen's Association to have a monthly VCA-sponsored in-barn graded sale. It is anticipated that MLY will hold two sales a month, included the in-barn graded sale.

Division of Animal and Food Industry Services (AFIS)

In July, the VDACS Food Safety Program (FSP) began responding to alleged violations of the Governors Executive Orders (EOs) to the food establishments that it regulates through the Virginia Department of Health's RedCap system. Since July 30, VDACS has responded to approximately 10,324 complaints. FSP staff responded to these complaints with letters and emails to the firms and corporate contacts. Staff is spending a considerable amount of time fielding follow-up calls from these firms to discuss these complaints, related questions, the importance of compliance with the EOs, and repeated offenses. Food Safety Specialists also visited firms that had repeated EO-related complaints and wrote up any EO violations that they observed on inspection reports. While at the firms, staff provided education on EO requirements. Compliance letters were then sent to the firms.

From November through January, the FSP performed the inspections necessary to open 124 new food businesses. A total of 247 hours were spent working with vendors to open these firms. FSP has an inventory of 13,153 firms under inspection. Twenty-five Food Safety Specialists, three Food Safety Technical Specialists, and three Field Supervisors are responsible for the regulatory oversight of these firms. From November through January, the ODF Food Safety Program conducted 2,670 inspections of food establishments (which includes retail food stores, food manufacturers, and food warehouses), investigated 123 non COVID-19 consumer complaints, and collected 257 food samples.

During the months of October, November, December, and January, the Office of Dairy and Foods (ODF) Dairy Services Program conducted 478 inspections of Grade "A" and manufactured-grade dairy

farms and 91 cheese and ice cream manufacturing plant inspections. To ensure compliance with Virginia's regulatory standards, program staff collected 1,270 milk samples from Virginia Grade "A" dairy farms. Three hundred and forty-four (344) cheese and frozen dessert samples were also collected to determine compliance with current dairy laws and regulations. Inspectors also made 1,400 farm visits to review construction of dairy facilities, review the installation of milking equipment and other related items, and offer advice and assistance to dairy farmers and manufactured milk processors.

In January, the ODF Dairy Services Program was granted exemptions to the majority of Grade "A" regulatory duties by the U.S. Food and Drug Administration (FDA) due to the ongoing COVID-19 pandemic. However, VDACS Dairy Inspectors have voluntarily chosen to continue to work as normal, with no major disruptions in work duties or Program requirements.

In February, multiple winter weather storms passed through Virginia, including an ice storm that resulted in ice accumulation on numerous surfaces. Facilities in multiple counties reported damages, and many were without power. ODF Food Safety staff has begun surveillance of the firms impacted by these storms. Any adulterated food products noted during firm visits will be destroyed under the direction of staff. ODF staff also contacted firms to follow up on boil water notices for the City of Hopewell and Pittsylvania County issued by the Virginia Department of Health because of the storm and contacted corporate grocery store regional contacts to discuss power outages. The majority of the contacts reported minimal losses due to emergency plan activation and the use of generators.

In February, an ODF Dairy Inspector assisted with training a newly certified U.S Food and Drug Administration (FDA) Milk Specialist on automatic milking installations, direct loading procedures, farm inspections, and dairy farm equipment. This FDA Milk Specialist will eventually oversee several New England states' milk programs.

On July 1, 2020, the Produce Safety Program (PSP) entered into the final year of the five-year federal/state Cooperative Agreement Program (CAP) to enforce the Produce Safety Rule on covered produce farms in Virginia. This program is supported entirely by an FDA grant. A new federal funding announcement has been made to continue the federal/state CAP, and VDACS will once again apply for federal funding. As of January 14, 2021, the PSP has conducted 95 inspections of covered farms and 48 voluntary on-farm readiness reviews (OFRRs). These OFRRs for very small farms will continue to be provided, upon request, until inspections begin for these farms on May 1, 2021. These visits are conducted jointly by PSP staff and VCE agents and are designed to assist and educate farmers. PSP continues to offer outreach to industry stakeholders and associations. Legislation was introduced and approved during the 2021 Session of the General Assembly to strike the sunset date for Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 on produce safety, which was enacted in 2017 and was set to expire on July 1, 2022. The successful passage of this legislation ensures that VDACS's PSP will continue to operate in Virginia.

In December, the Office of Veterinary Services (OVS) Program Manager participated in the quarterly Virginia State Animal Response Team (VASART) Board Meeting and provided an update on the state pet sheltering plan. The VASART Board includes members from the Virginia Veterinary Medical Association, local animal control agencies, VFBB, and other groups that aim to improve local response to pet sheltering needs.

In January, OVS staff contacted the manager of a new sheep and goat buying station at the Pulaski Livestock Market in Dublin. Sales will be held monthly beginning January 16. Staff shared information with the manager of the buying station about Virginia regulations regarding the application of scrapie tags to unidentified sheep and goats and requirements for complete records of consignors and buyers.

In January, OVS placed a boarding stable in Hanover County under quarantine for equine herpes myeloencephalopathy caused by the equine herpes virus-1 (EHV-1). The horse first showed neurologic signs on January 25. His condition worsened, resulting in euthanasia on January 26. All exposed horses on the farm are being monitored twice daily for fever and other clinical signs. One horse from another farm was exposed when it visited the farm on January 24. This horse's home stable, a small privately owned farm in Hanover County, was also placed under quarantine. No additional Virginia horses have been exposed. EHV-1 is a virus that is present in the environment and found in most horses all over the world. Horses typically are exposed to the virus at a young age with no serious side effects. A large percent of horses carry the virus with no clinical signs for the remainder of their lives. Exposed horses rarely develop the neurologic form of the disease.

In February, the Office of Meat and Poultry Services received notification of its successful FY 2020 audit result from the USDA Food Safety Inspection Services Federal-State Audit Branch. The audit indicated that Virginia implemented and can maintain a meat and poultry inspection program "at least equal to" the federal requirements and is enforcing requirements "at least equal to" those imposed at the federal level.

Division of Consumer Protection (DCP)

In December, staff from the Office of Plant Industry Services (OPIS) completed the 2020 cotton boll weevil survey. Approximately 900 traps were installed on an estimated 78,000 acres of cotton. No cotton boll weevils were detected. Virginia's 2020 cotton acreage decreased significantly from the approximately 100,000 acres of cotton planted in 2019. In February, OPIS staff participated in the virtual meeting of the Virginia Cotton Boll Weevil Eradication Foundation. During the meeting, staff gave an update on the 2020 cotton boll weevil survey. Growers were informed that the cotton boll weevil assessment rate for 2021 will increase to 75 cents per acre. The 2020 assessment rate was 50 cents per acre. The 2021 rate includes 50 cents per acre for the Virginia Cotton Boll Weevil Survey Program and 25 cents per acre for the National Boll Weevil Protection Fund (BWPF). The BWPF provides funding to assist in the eradication of the cotton boll weevil in the Lower Rio Grande Valley area of Texas. All cotton growing states are participating in this national program, which is intended to promote the control and elimination of the cotton boll weevil in southern Texas, thereby reducing the risk of re-infestation of the cotton boll weevil in states like Virginia where it has been eradicated. The meeting was attended by approximately 70 cotton growers and representatives of VFBB and the National Cotton Council.

In December, OPIS staff completed notification mailings to landowners located in the 2021 Virginia Gypsy Moth Slow-the-Spread project treatment area. These direct mailings provide information regarding the gypsy moth treatments that will be conducted in spring 2021, biological information on the gypsy moth, and resources for additional information regarding treatments and the Slow-the-Spread Project. Letters were also sent to county administrators in the localities where treatments will be

conducted. Approximately 3,600 letters were mailed by OPIS staff.

In January, the USDA Animal and Plant Health Inspection Service (APHIS) announced its funding awards for support of projects under the federal Plant Protection Act, Section 7721. Virginia was awarded a total of \$65,000 for three projects to survey for invasive plant pests and diseases, including Thousand Cankers Disease/Walnut Twig beetle, pests of grape and corn commodities, and *Phytophthora ramorum* (Sudden Oak Death). OPIS is still awaiting notification of allocated funding for Virginia's spotted lanternfly project, as USDA-APHIS will be funding that program through a separate source for rapid response pest emergencies.

Effective January 14, USDA APHIS repealed its Emerald Ash Borer (EAB) regulations, effectively deregulating EAB and changing the strategy by which USDA APHIS will manage this pest on a federal level. While the current regulatory requirements will be removed, certification of firewood from EAB-infested areas may continue to be required by states through their state regulations. Virginia does not require this certification. For certification, firewood must be heated to specific temperatures and held at that temperature for specific period of time. Currently, USDA APHIS has regulatory oversight and authority for certifying kilns used to heat treat firewood to meet federal standards. In order to facilitate the movement of firewood from areas in Virginia that are known to be infested with the EAB, OPIS will become responsible for certifying kilns used to treat the firewood that will be moved to states with firewood treatment regulations. Virginia's Emerald Ash Borer regulation was repealed in 2012.

In February, OPIS staff participated in the Virginia Forest Health Professionals virtual conference. Topics included oak wilt disease in the environment, pesticide safety, lake and pond health, and native pests and their transition to 'native invasive' status in response to climatic changes. OPIS staff presented an update on the spotted lanternfly in Virginia, including treatment and survey updates, locations where spotted lanternfly was detected in 2020, the spotted lanternfly quarantine, and best management practices. Approximately 215 people representing researchers, Virginia foresters, VCE, and other regulatory agencies were in attendance.

In February, OPIS received notification through the National Plant Board that USDA APHIS Plant Protection and Quarantine (PPQ) has compiled and posted information online on the unsolicited seed shipments from 2020. In 2020, OPIS and other state departments of agriculture received an overwhelming number of reports from citizens who had received unsolicited packages in the mail, a majority of them containing seeds that appeared to have originated in China. USDA APHIS PPQ investigated the situation in 2020 and has worked with domestic companies, federal agencies, and international groups to compile best management practices regarding the purchase of seeds from online sources. The information posted on the USDA APHIS PPQ website includes information on the regulation of the importation of plants and seeds for planting, including plants and seeds purchased through e-commerce sites and best management practices.

In February, OPIS staff began notifying businesses and organizations in Clarke and Warren counties of the upcoming expansion of the area regulated under the Virginia Spotted Lanternfly Quarantine. Data from surveys conducted in 2020 indicated that significant reproducing populations of the spotted lanternfly are established in Clarke and Warren counties. In an effort to slow the spread of this invasive pest, the quarantine's regulated area will be expanded to include these two localities in March 2021.

Approximately 4,000 letters were mailed to businesses in these localities during the first two weeks of February.

In February, OPIS staff hosted virtual public meetings regarding the future expansion of the Spotted Lanternfly Quarantine. Topics of discussion included the threat that the spotted lanternfly poses to Virginia, how to identify the invasive insect, a review of the spotted lanternfly quarantine, and information on obtaining a spotted lanternfly permit. Approximately 110 people participated in the meetings. In an effort to ensure the availability of the information presented during the meetings, the recorded presentation will be posted on VDACS' webpage.

In February, OPIS was informed by a Virginia greenhouse operation that it had independently confirmed positive tests for Tomato Brown Rugose Fruit Virus (ToBRFV). The plant disease ToBRFV is a newly identified virus that causes premature fruit abortion; reduces fruit yield; negatively impacts fruit quality; and can lead to whole plant death in tomato, pepper, eggplant, and other solanaceous crops. The virus is highly virulent and spreads easily through mechanical transmission. OPIS staff contacted USDA APHIS regarding next steps, as ToBRFV is a plant pathogen of concern. While the greenhouse grower has taken steps to voluntarily destroy infected material, OPIS and USDA APHIS staff will be sampling additional plants from the facility to ensure that no other material is infected with ToBRFV.

As part of its response to the COVID-19 pandemic and the ongoing state of emergency established by EO 51, all authorization letters for prospective applicators to take the exams to become certified pesticide applicators issued on or after December 20, 2019, have had their expiration dates further extended through June 30, 2021, or the current date of expiration, whichever is greater. Prospective applicators who do not take the exams by January 30, 2021, or the current date of expiration, whichever is greater, will be required to submit a new application with appropriate fees to take the exams. In response to the extension, the Office of Pesticide Services (OPS) notified approximately 2,300 prospective pesticide applicators who were impacted by this extension. Testing opportunities include the Department of Motor Vehicles (DMV) (by appointment only); testing events proctored by OPS pesticide investigators in cooperation with the Virginia Pest Management Association; and other proctored testing by OPS pesticide investigators.

In February, OPS staff mailed pesticide business license renewal notices to approximately 2,900 currently licensed pesticide businesses, including 360 combined business license/fertilizer license renewals. All pesticide businesses that sell, store, distribute, mix, or apply pesticides or recommend pesticides for use in Virginia are required to be licensed. All pesticide business licenses expire annually on March 31. Included with the renewal notice was information notifying all businesses that letters of authorization to test issued on or after December 20, 2019, have been extended through June 30, 2021, or the date on the letter, whichever is later. Authorizations to test are valid for 90 days; however, the temporary closure of DMV offices due to COVID-19 eliminated an important testing option for many prospective pesticide applicators who are required to take pesticide applicator certification exams. DMV offices have reopened only on a limited basis, and this extension allows prospective applicators additional time to take their exams. In addition to DMV, testing opportunities include events hosted by the Virginia Pest Management Association in cooperation with OPS and other in-person proctored testing with OPS pesticide investigators.

As of February 22, OPS has registered 13,765 new and renewing pesticide product registrations for 2021. This represents approximately 85 percent of the total products registered in 2020. OPS staff continues to process completed registrations as they are received. In response to the current public health crisis, OPS has seen an increase in the number of applications that include requests for registration of disinfectants to kill germs on surfaces and objects, including the novel coronavirus that causes COVID-19.

In 2020, Virginia's Plastic Pesticide Container Recycling Program granulated 167,298 pounds of containers, bringing the overall program total to 2,412,049 pounds of plastic removed from the state since the program's inception. Also in 2020, Virginia's Pesticide Collection Program collected a total of 61,703 pounds of outdated and unwanted pesticides for disposal. Since the Pesticide Collection Program's inception, a total of 1,629,791 pounds of outdated and unwanted pesticides have been collected and subsequently disposed of through this program.

In January, Office of Weights and Measures (OWM) staff participated in the Annual Meeting of the National Conference on Weights and Measures (NCWM). The NCWM annual meeting was scheduled to be held in Florida in July 2020 but was rescheduled and conducted in a virtual format due to the ongoing pandemic. The NCWM annual meeting provides an opportunity for member states, weights and measures officials, and industry stakeholders to convene, consider, and vote on proposed changes to national laws and regulations found in the National Institute of Standards and Technology (NIST) Handbook 44, Handbook 130 and Handbook 133.

In February, the VDACS Weights and Measures Metrology Laboratory received a Certificate of Metrological Traceability from NIST. This certificate demonstrates compliance to metrology standards and NIST Handbook 143. The National Voluntary Laboratory Accreditation Program, a component of NIST, accredits the VDACS Weights and Measures Metrology Laboratory. This laboratory recognition demonstrates the extra level of scrutiny applied to the quality and technical operations of the Metrology Laboratory.

Regulatory Update

The Virginia Administrative Process Act and Governor Northam's Executive Order 14 (2018) require that all regulations be reviewed at least once every four years as part of the Commonwealth's periodic review process. In April 2020, VDACS initiated the periodic review of 22 Board of Agriculture and Consumer Services-promulgated regulations, which was announced in the Register of Regulations and opened for public comment on Virginia's Regulatory Town Hall on April 27, 2020. In August 2020, VDACS initiated the periodic review of another 17 Board of Agriculture and Consumer Services-promulgated regulations, which was announced in the Register of Regulations and opened for public comment on Virginia's Regulatory Town Hall on August 17, 2020.

The agency received no public comments requesting revisions to any regulation. Based on staff recommendations, all but one of the regulations under review were retained as-is. At the March 2021 meeting of the Board of Agriculture and Consumer Services, staff will recommend amending Rules and Regulations Pertaining to Labeling and Sale of Infant Formula (2 VAC 5-560).

Chapter	Regulation Title	Outcome of review
April 2020		
2 VAC 5-30	Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia	Retain
2 VAC 5-40	Rules and Regulations Governing the Prevention, Control and Eradication of Bovine Tuberculosis in Virginia	Retain
2 VAC 5-90	Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia	Retain
2 VAC 5-141	Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia	Retain
2 VAC 5-150	Rules and Regulations Governing the Transportation of Companion Animals	Retain
2 VAC 5-170	Rules and Regulations for the Registration of Poultry Dealers	Retain
2 VAC 5-206	Regulation for Scrapie Eradication	Retain
2 VAC 5-310	Rules and Regulations-Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law (BACS)	Retain
2 VAC 5-315	Virginia Imported Fire Ant Quarantine for Enforcement of the Virginia Pest Law	Retain
2 VAC 5-317	Regulations for Enforcement of the Noxious Weeds Law	Retain
2 VAC 5-440	Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine	Retain
2 VAC 5-490	Regulations Governing Grade "A" Milk	Retain
2 VAC 5-501	Regulations Governing the Cooling, Storing, Sampling and Transporting of Milk	Retain
2 VAC 5-510	Rules and Regulations Governing the Production, Processing, and Sale of Ice Cream, Frozen Desserts, and Similar Products	Retain
2 VAC 5-531	Regulations Governing Milk For Manufacturing Purposes	Retain
2 VAC 5-590	Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef	Retain
2 VAC 5-610	Rules Governing the Solicitation of Contributions	Retain
2 VAC 5-620	Regulations Pertaining to the Establishment of the Dangerous Dog Registry	Retain

2 VAC 5-670	Regulations Governing Pesticide Product Registration, Handling, Storage, and Disposal under Authority of the Virginia Pesticide Control Act	Retain
2 VAC 5-675	Regulations Governing the Pesticide Fees Charged By the Department of Agriculture and Consumer Services	Retain
2 VAC 5-680	Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act	Retain
2 VAC 5-685	Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act	Retain
August 2020		
2 VAC 5-11	Public Participation Guidelines	Retain
2 VAC 5-61	Regulations Governing Livestock Dealers and Marketing Facilities for the Purpose of Controlling and Eradicating Infectious and Contagious Diseases of Livestock	Retain
2 VAC 5-70	Health Requirements Governing the Control of Equine Infectious Anemia in Virginia	Retain
2 VAC 5-80	Requirements Governing the Branding of Cattle in Virginia	Retain
2 VAC 5-111	Public and Private Animal Shelters	Retain
2 VAC 5-190	Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases	Retain
2 VAC 5-240	Rules and Regulations for Enforcement of the Grain Handlers Law	Retain
2 VAC 5-319	Best Management Practices for the Operation of Apiaries in Order to Limit Operator Liability	Retain
2 VAC 5-330	Rules and Regulations for Enforcement of the Virginia Pest Law-Virginia Gypsy Moth Quarantine	Retain
2 VAC 5-350	Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law	Retain
2 VAC 5-360	Regulations for the Enforcement of the Virginia Commercial Feed Act	Retain
2 VAC 5-400	Rules and Regulations for the Enforcement of the Virginia Fertilizer Law	Retain
2 VAC 5-480	Regulation Governing the Oxygenation of Gasoline	Retain
2 VAC 5-550	Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage	Retain
2 VAC 5-560	Rules and Regulations Pertaining to Labeling and Sale of Infant Formula	Amend
2 VAC 5-570	Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs	Retain

2 VAC 5-585	Retail Food Establishment Regulations	Retain
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Lobbyist-in-a-Box: (BACSRs) BACS - 2021 Regular Session

HB 1744 Animal care; zoos and petting zoos, seizure of animals.

Chief patron: Campbell, R.R.

A BILL to amend and reenact §§ 3.2-6500, 3.2-6558, 3.2-6568, and 3.2-6569 of the Code of Virginia, relating to animal care; humane investigators; seizure of animals; zoos.

21100865D

Summary as introduced:

Animal care; zoos and petting zoos; seizure of animals. Raises from reasonable cause to probable cause the standard for a belief that animal cruelty laws are being violated for purposes of an application for a search warrant. The bill adds animals located at a zoo or petting zoo, defined in the bill, to agricultural animals as exceptions to the standards for seizure or impoundment of companion animals. The bill also requires that before a seizure can take place at a zoo or petting zoo, a direct and immediate threat to an animal must exist that cannot be corrected in a reasonable time or that the owner is unable or unwilling to correct. The bill requires humane investigators to be residents of the Commonwealth. The bill contains technical amendments.

11/30/20 House: Prefiled and ordered printed; offered 01/13/21 21100865D

11/30/20 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

01/21/21 House: Impact statement from DPB (HB1744)

02/05/21 House: Left in Agriculture, Chesapeake and Natural Resources

HB 1809 Charitable or civic organizations, etc.; contracts, report.

Chief patron: VanValkenburg

A BILL to amend and reenact § 57-54 of the Code of Virginia, relating to religious and charitable matters; contracts between charitable or civic organizations and professional fund-raising counsel or professional solicitors; report.

21100577D

Summary as introduced:

Religious and charitable matters; charitable or civic organization contracts; report. Requires the Commissioner of Agriculture and Consumer Services to submit an annual written report to the Governor and the General Assembly, by October 1 of each year, on (i) the number of charitable or civic organizations, professional fund-raising counsel, and professional solicitors registered in Virginia; (ii) the number of contracts or agreements between such registered professional fund-raising counsel or professional solicitors and such registered charitable or civic organizations; and (iii) compensation paid, in relation to funds raised and administrative costs, to any professional fund-raising counsel or professional solicitor registered in Virginia by a charitable or civic organization registered in Virginia.

01/05/21 House: Prefiled and ordered printed; offered 01/13/21 21100577D

01/05/21 House: Referred to Committee on General Laws

01/12/21 House: Assigned GL sub: ABC/Gaming

01/18/21 House: Impact statement from DPB (HB1809)

02/05/21 House: Left in General Laws

HB 1815 Marijuana; legalization of cultivation, manufacture, sale, possession, and testing, penalties.

Chief patron: Heretick

A BILL to amend and reenact §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 15.2-1627, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-69.48:3, 16.1-228, as it is currently effective and as it shall become effective, 16.1-260, 16.1-273, 16.1-

278.8:01, 16.1-278.9, 16.1-309.1, 17.1-275, 17.1-275.8, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258 through 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4, 18.2-460, 18.2-474.1, 18.2-513, 19.2-11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-120.1, 19.2-188.1, 19.2-215.1, 19.2-291.1, 19.2-299, 19.2-299.2, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-386.28, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become effective, 22.1-277.08, 22.1-315, 24.2-233, 37.2-314, 37.2-416, 37.2-506, 48-17, 52-8.1:1, 52-35, 53.1-220.1, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia; to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7, consisting of sections numbered 3.2-4122 through 3.2-4199.6; and to repeal §§ 18.2-248.1, 18.2-250.1, 18.2-251.1 through 18.2-251.1:3, and 19.2-389.3 of the Code of Virginia, relating to the cultivation, manufacture, sale, possession, and testing of marijuana; penalties.

21100114D

Summary as introduced:

Marijuana; legalization of cultivation, manufacture, sale, possession, and testing; penalties. Establishes a regulatory scheme for the regulation of marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities, and retail marijuana stores by the Board of Agriculture and Consumer Services. The bill also grants localities the authority to enact ordinances establishing additional licensing requirements for marijuana establishments located within such locality and allows the home cultivation of marijuana for personal use under certain circumstances. The bill imposes a tax on retail marijuana and retail marijuana products sold by a retail marijuana store at a rate of 9.7 percent (for a total sales tax of 15 percent) and provides that 67 percent of the revenues collected from the tax be deposited into the general fund and 33 percent of the revenues be deposited into a "Retail Marijuana Education Support Fund" to be used solely for purposes of public education. Finally, the bill establishes several new criminal penalties related to marijuana, as well as modifies some existing criminal penalties. This bill was incorporated into HB 2312.

01/06/21 House: Impact statement from VCSC (HB1815)

01/06/21 House: Referred to Committee on General Laws

01/25/21 House: Assigned GL sub: ABC/Gaming

01/26/21 House: Subcommittee recommends incorporating (HB2312-Herring)

01/30/21 House: Incorporated by General Laws (HB2312-Herring)

HB 2109 Agriculture and Consumer Services, Board of; expands membership.

Chief patron: Fariss

A BILL to amend and reenact § 3.2-109 of the Code of Virginia, relating to Board of Agriculture and Consumer Services; membership.

21101405D

Summary as introduced:

Board of Agriculture and Consumer Services; membership. Expands the Board of Agriculture and Consumer Services by adding as an at-large member an expert in companion animal welfare who is employed by a releasing agency in the Commonwealth. Under current law, the Board is composed of one member from each congressional district, of which there are 11, two at-large members engaged in the application or sale of pesticides, and two ex officio members.

01/20/21 House: Subcommittee recommends reporting with substitute (7-Y 1-N)

01/20/21 House: House committee, floor amendments and substitutes offered

01/22/21 House: Impact statement from DPB (HB2109)

01/27/21 House: Subcommittee failed to recommend reporting (4-Y 4-N)

02/05/21 House: Left in Agriculture, Chesapeake and Natural Resources

SB 1177 Public weighmasters; license.

Chief patron: Ruff

A BILL to amend and reenact § 3.2-5802 of the Code of Virginia, relating to public weighmasters; license.

21101884D

Summary as introduced:

Public weighmasters; license. Allows a business entity to apply to the Commissioner of Agriculture and Consumer Services for a license that allows qualified individuals working for or on behalf of the entity to act as licensed public weighmasters.

01/08/21 Senate: Prefiled and ordered printed; offered 01/13/21 21101884D

01/08/21 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

01/18/21 Senate: Impact statement from DPB (SB1177)

01/26/21 Senate: Stricken at request of Patron in Agriculture, Conservation and Natural Resources (15-Y 0-N)

SB 1243 Marijuana; legalization of cultivation, manufacture, sale, possession, and testing, penalties.

Chief patron: Morrissey

A BILL to amend and reenact §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 15.2-1627, 16.1-69.48:1, as it is currently effective and as it shall become effective, 16.1-69.48:3, 16.1-228, as it is currently effective and as it shall become effective, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 16.1-309.1, 17.1-275, 17.1-275.8, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258 through 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4, 18.2-460, 18.2-474.1, 18.2-513, 19.2-11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-120.1, 19.2-188.1, 19.2-215.1, 19.2-291.1, 19.2-299, 19.2-299.2, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-386.28, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall become effective, 19.2-392.2, 22.1-277.08, 22.1-315, 24.2-233, 37.2-314, 37.2-416, 37.2-506, 48-17, 52-8.1:1, 52-35, 53.1-220.1, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia; to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7, consisting of sections numbered 3.2-4122 through 3.2-4199.6, and by adding a section numbered 19.2-392.2:1; and to repeal §§ 18.2-248.1, 18.2-250.1, 18.2-251.1 through 18.2-251.1:3, and 19.2-389.3 of the Code of Virginia, relating to the cultivation, manufacture, sale, possession, and testing of marijuana; penalties.

21100854D

Summary as introduced:

Marijuana; legalization of cultivation, manufacture, sale, possession, and testing; penalties. Establishes a regulatory scheme for the regulation of marijuana cultivation facilities, marijuana manufacturing facilities, marijuana testing facilities, and retail marijuana stores by the Board of Agriculture and Consumer Services. The bill also grants localities the authority to enact ordinances establishing additional licensing requirements for marijuana establishments located within such locality and allows the home cultivation of marijuana for personal use under certain circumstances. The bill imposes a tax on retail marijuana and retail marijuana products sold by a retail marijuana store at a rate of 9.7 percent (for a total sales tax of 15 percent) and provides that 67 percent of the revenues collected from the tax be deposited into the general fund and 33 percent of the revenues be deposited into a "Retail Marijuana Education Support Fund" to be used solely for purposes of public education. The bill establishes several new criminal penalties related to marijuana as well as modifies some existing criminal penalties. The bill requires the automatic expungement of records relating to the arrest, charge, conviction, adjudication or civil offense of a person for a misdemeanor violation of distribution or possession with intent to distribute marijuana and for a violation of possession of marijuana by July 1, 2022, or if, on July 1, 2022, the person who is the subject of the arrest, charge, conviction, adjudication, or civil offense has not completed all terms of sentencing and probation, including satisfaction of all court costs and fines and all orders of restitution, by three months after the date of completion of all terms of sentencing and probation. Finally, the bill permits any person who is convicted or adjudicated delinquent of a felony violation of distribution or possession with intent to distribute marijuana or charged with such violation which charge is deferred and dismissed, to petition for expungement of such charge, conviction, or adjudication under certain circumstances. This bill was incorporated into SB 1406.

01/11/21 Senate: Prefiled and ordered printed; offered 01/13/21 21100854D
01/11/21 Senate: Referred to Committee on Rehabilitation and Social Services
01/13/21 Senate: Impact statement from VCSC (SB1243)
01/18/21 Senate: Assigned Rehab sub: Marijuana
01/22/21 Senate: Incorporated by Rehabilitation and Social Services (SB1406-Ebbin) (9-Y 3-N)

SB 1312 Virginia Spirits Promotion Fund; assessment on distillers.

Chief patron: Mason

A BILL to amend and reenact § 3.2-3011 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.2-3012.1 and 3.2-3012.2, relating to Virginia Spirits Promotion Fund; assessment on distillers; emergency.

21102742D

Summary as introduced:

Virginia Spirits Promotion Fund; assessment on distillers; emergency. Requires licensed distillers to collect an assessment for each liter of spirits sold and remit such assessment to the Tax Commissioner to the credit of the Virginia Spirits Promotion Fund. The bill authorizes the Virginia Spirits Board to set the amount of such assessment, not to exceed \$1 per liter of spirits sold. The bill contains an emergency clause.

EMERGENCY

01/12/21 Senate: Referred to Committee on Rehabilitation and Social Services
01/15/21 Senate: Reported from Rehabilitation and Social Services (8-Y 6-N)
01/15/21 Senate: Rereferred to Finance and Appropriations
01/19/21 Senate: Impact statement from DPB (SB1312)
02/06/21 Senate: Left in Finance and Appropriations

Counts: HB: 4 SB: 3

Lobbyist-in-a-Box: (BACSSS1) BACS - 2021 Special Session I

HB 1750 Dairy Producer Margin Coverage Premium Assistance Program; established.

Chief patron: Gooditis

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, relating to Dairy Producer Margin Coverage Premium Assistance Program; report.

Summary as passed:

Dairy Producer Margin Coverage Premium Assistance Program. Directs the Commissioner of Agriculture and Consumer Services to establish and administer the Dairy Producer Margin Coverage Premium Assistance Program (the Program). The bill provides that any dairy farmer that has a resource management plan or nutrient management plan and participates in the federal margin coverage program for dairy producers at the tier I level as contained in the federal Agriculture Improvement Act of 2018 is eligible to participate in the Program. Under the bill, each year a Program participant will receive a refund of its annual premium payment paid into the federal program. Such reimbursement shall be provided on a first-come, first-served basis and shall be subject to availability of funds expressly appropriated for the purposes set forth in the chapter. The Commissioner shall submit an annual report no later than December 1 of each year to the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources assessing the effectiveness of the Program. The bill has an expiration date of July 1, 2023. This bill is identical to SB 1193.

03/09/21 Senate: Signed by President

03/11/21 House: Signed by Speaker

03/15/21 House: Enrolled Bill communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/17/21 House: Impact statement from DPB (HB1750ER)

HB 1751 Peanuts; extends sunset date of excise tax on all peanuts grown in Virginia.

Chief patron: Brewer

An Act to amend and reenact § 3.2-1905 of the Code of Virginia, relating to the excise tax on peanuts.

Summary as introduced:

Excise tax on peanuts. Extends from July 1, 2021, to July 1, 2026, the sunset date of the excise tax on all peanuts grown in Virginia and reduces from \$0.30 per 100 pounds to \$0.25 per 100 pounds the excise tax rate. The proceeds from this tax are used for promoting the sales and use of Virginia peanuts. This bill is identical to SB 1411.

03/11/21 House: Impact statement from TAX (HB1751ER)

03/11/21 House: Signed by Speaker

03/15/21 House: Enrolled Bill communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/18/21 Governor: Approved by Governor-Chapter 120 (effective 7/1/21)

HB 1877 Legal service plans; seller registration.

Chief patron: Jenkins

An Act to amend and reenact § 59.1-441.2 of the Code of Virginia, relating to legal service plans; seller registration.

Summary as passed House:

Legal service plans; seller registration. Provides that a legal services plans seller may offer, advertise, or execute, or cause to be executed by the subscriber, any subscription contract in the Commonwealth if the seller has submitted the seller's information and fees to the legal services organization for which the seller offers subscription contracts. The bill requires the legal services organization to submit the information and fees to the Commissioner of the Department of Agriculture and Consumer Services within 30 days of receiving such information and fees.

02/27/21 Senate: Signed by President

03/01/21 House: Impact statement from DPB (HB1877ER)

03/01/21 House: Enrolled Bill communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/18/21 Governor: Approved by Governor-Chapter 180 (effective 7/1/21)

HB 2030 Neonicotinoid pesticides; communication between beekeepers and applicators.

Chief patron: Krizek

An Act to study improved communication between beekeepers and applicators of neonicotinoid insecticides.

Summary as passed:

Neonicotinoid pesticides; study. Directs the Department of Agriculture and Consumer Services to study the Beekeeper Pollinator Protection Plan and voluntary best management practices for the purpose of proposing improvements to communication between beekeepers and applicators to reduce the risk to pollinators from neonicotinoid pesticides. The bill authorizes the Department to establish a stakeholder working group and directs it to report on its findings no later than December 1, 2021.

02/26/21 House: Signed by Speaker

02/27/21 Senate: Signed by President

03/01/21 House: Impact statement from DPB (HB2030ER)

03/01/21 House: Enrolled Bill communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

HB 2068 Local Food and Farming Infrastructure Grant Program; established.

Chief patron: Rasoul

An Act to amend and reenact §§ 3.2-303, 3.2-304, and 3.2-310 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3.1 of Title 3.2 a section numbered 3.2-311, relating to Local Food and Farming Infrastructure Grant Program.

Summary as introduced:

Local Food and Farming Infrastructure Grant Program. Establishes the Local Food and Farming Infrastructure Grant Program and authorizes the Governor to award grants to political subdivisions from the Governor's Agriculture and Forestry Industries Development Fund as part of the Program. Such grants, in amounts up to \$25,000, shall be awarded on a competitive basis to support infrastructure development projects that support local food production and sustainable farming. The bill directs the Secretary of Agriculture and Forestry to develop guidelines for the Program that favor projects that establish or maintain farmers markets; businesses or organizations that manage the aggregation, distribution, and marketing of food products primarily from local and regional producers; and primarily locally owned processing facilities.

02/25/21 House: Impact statement from DPB (HB2068ER)

02/25/21 House: Signed by Speaker

02/26/21 House: Enrolled Bill communicated to Governor on February 26, 2021

02/26/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/18/21 Governor: Approved by Governor-Chapter 185 (effective 7/1/21)

HB 2078 Industrial hemp; updates laws to address the new hemp producer license.

Chief patron: Marshall

An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 18.2-251.1:3, 54.1-3401, and 54.1-3446 of the Code of Virginia, relating to industrial hemp; emergency.

Summary as passed House:

Industrial hemp; federal hemp producer license; emergency. Updates Virginia's industrial hemp laws to address the new hemp producer license issued by the U.S. Department of Agriculture. The bill changes drug laws to exclude the industrial hemp possessed by a federally licensed hemp producer from the definition of "marijuana" and to exclude certain amounts of tetrahydrocannabinol (THC) in such industrial hemp from the prohibition on THC. The bill exempts federally licensed hemp producers from state industrial hemp registration requirements and adds such producers to the list of those eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund.

The bill provides that no grower, agent of such grower, or federally licensed producer shall be prosecuted for possession of industrial hemp or Cannabis sativa with a THC concentration that does not exceed the concentration established in certain federal regulations and prohibits the Commissioner of Agriculture and Consumer Services from deeming a grower negligent if the grower makes reasonable efforts to grow industrial hemp but grows Cannabis sativa with a THC concentration that does not exceed the concentration established in federal regulations.

The bill makes other changes to industrial hemp laws, including (i) limiting the application fee for registration of growers, dealers, and producers to \$250; (ii) excluding from the definition of "dealer" any retail establishment that sells a completed product containing industrial hemp; (iii) making optional the monitoring and random testing of industrial hemp by the Commissioner and authorizing the random sampling of such hemp; (iv) removing the requirement that the Attorney General of the United States be notified when a Virginia grower, dealer, or processor exceeds the federal THC limit; and (v) directing the Commissioner to adopt regulations establishing a fee structure for registration.

Finally, the bill exempts employees of the Virginia Department of Agriculture and Consumer Services from prosecution for possession or distribution of industrial hemp when possession is necessary in the performance of their duties. The bill contains an emergency clause.

EMERGENCY

02/24/21 House: Signed by Speaker

02/25/21 House: Enrolled Bill communicated to Governor on February 25, 2021

02/25/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/12/21 Governor: Approved by Governor-Chapter 110 (effective 3/12/21)

03/12/21 Governor: Acts of Assembly Chapter text (CHAP0110)

HB 2203 Virginia Agriculture Food Assistance Program and Fund; established and created.

Chief patron: Filler-Corn

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, relating to the Virginia Agriculture Food Assistance Program and Fund; established.

Summary as passed:

Virginia Agriculture Food Assistance Program and Fund; established. Requires the Commissioner of Agriculture and Consumer Services (the Commissioner) to establish the Virginia Agriculture Food Assistance Program (VAFA Program) for Virginia farmers and food producers to donate, sell, or otherwise provide agriculture products to charitable food assistance organizations. The bill also creates the Virginia Agriculture Food Assistance Fund to disburse moneys to such charitable food assistance organizations to

reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated to such charitable food assistance organizations. The bill authorizes the Commissioner to adopt guidelines and regulations to carry out the VAFA Program, which must prohibit grant recipients from attributing more than 10 percent of the grant amount to administrative costs. This bill is identical to SB 1188.

03/09/21 Senate: Signed by President

03/11/21 House: Signed by Speaker

03/15/21 House: Enrolled Bill communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/17/21 House: Impact statement from DPB (HB2203ER)

HB 2275 Food and drink permit; Commissioner of Agriculture and Consumer Services to issue.

Chief patron: Gooditis

A BILL to amend and reenact §§ 3.2-5100, 3.2-5101, 3.2-5130, and 15.2-2288.6 of the Code of Virginia, relating to food and drink permit requirements.

21103877D

Summary as passed House:

Food and drink permit requirements; regulations. Directs the Commissioner of Agriculture and Consumer Services (the Commissioner), after conducting the required inspection, to issue a permit for the operation of any food manufacturer, food storage warehouse, or retail food establishment. The bill prohibits the operation of such manufacturer, warehouse, or establishment without a permit unless the inspection finds no significant health hazard and the business is awaiting receipt of its permit, which shall be processed within 30 days of the inspection. The bill authorizes the Commissioner to deny, suspend, or revoke such permit for certain violations and authorizes the Commissioner to suspend such permit and seek an expedited informal fact-finding proceeding if conditions exist that present a significant and immediate public health hazard.

The bill requires the Commissioner to issue a permit to any manufacturer, warehouse, or establishment that is legally operating on July 1, 2021, and has satisfactorily completed its most recent inspection. The bill also authorizes the Board of Agriculture and Consumer Services to adopt regulations to administer the permitting process and directs the Commissioner to develop a written appeal process for use when a permit is suspended.

02/22/21 Senate: Read third time

02/22/21 Senate: Passed by temporarily

02/22/21 Senate: Passed Senate (20-Y 19-N)

02/22/21 Senate: Reconsideration of Senate passage agreed to by Senate (39-Y 0-N)

02/22/21 Senate: Defeated by Senate (18-Y 21-N)

HB 2302 Farmers market food and beverage products; sales considered essential during state of emergency.

Chief patron: Wyatt

An Act to require that farmers market food and beverage sales be considered essential during a declared state of emergency.

Summary as passed:

Farmers markets treated as grocery stores during state of emergency. Provides that farmers markets shall be treated the same as grocery stores if such stores are allowed to remain open as essential businesses during a state of emergency declared by the Governor.

02/26/21 House: Signed by Speaker

03/01/21 House: Impact statement from DPB (HB2302ER)

03/01/21 House: Enrolled Bill communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/18/21 Governor: Approved by Governor-Chapter 198 (effective 7/1/21)

HB 2312 Marijuana; legalization of simple possession, etc.

Chief patron: Herring

An Act to amend and reenact §§ 2.2-221, 2.2-507, 2.2-511, 2.2-1119, 2.2-2818, 2.2-2905, 2.2-3114, 2.2-3705.3, 2.2-3711, 2.2-3802, 2.2-4024, 3.2-1010, 3.2-3906, 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4116, 4.1-100, as it is currently effective and as it shall become effective, 4.1-101.01, 4.1-101.02, 4.1-101.07, 4.1-101.09, 4.1-101.010, 4.1-101.1, 4.1-103, as it is currently effective and as it shall become effective,

Summary as passed:

Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly. This bill incorporates HB 1815 and is identical to SB 1406. See H. B. 2312 Enrolled PDF text:

<https://lis.virginia.gov/000/housecannabisenrolled.pdf>

03/09/21 Senate: Signed by President

03/11/21 House: Signed by Speaker

03/15/21 House: Enrolled Bill communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/19/21 House: Impact statement from DPB (HB2312ER)

HJ 527 Invasive plant species; DCR, et al., to study the sale and use of species.

Chief patron: Bulova

Requesting the Department of Conservation and Recreation, jointly with the Virginia Department of Agriculture and Consumer Services, to study the sale and use of invasive plant species. Report.

21102405D

Summary as passed:

Study; Department of Conservation and Recreation and Virginia Department of Agriculture and Consumer Services; invasive plant species work group; report. Requests the Department of Conservation and Recreation, jointly with the Department of Agriculture and Consumer Services, to establish a work group to study the sale and use of invasive plant species. The resolution requests that the departments work with several state agencies, conservation nonprofits, plant industry and agriculture groups, local government associations, and other stakeholders to develop recommendations regarding statutory and regulatory changes intended to reduce or eliminate the sale and use of invasive plant species in the Commonwealth and promote the sale and use of native plants.

02/16/21 Senate: Engrossed by Senate as amended
02/16/21 Senate: Agreed to by Senate with amendments by voice vote
02/18/21 House: Placed on Calendar
02/18/21 House: Senate amendments agreed to by House (98-Y 2-N)
02/18/21 House: VOTE: Adoption (98-Y 2-N)

SB 1115 Industrial hemp; increases maximum THC concentration.

Chief patron: Peake

A BILL to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4119, 18.2-247, 18.2-251.1:3, 54.1-3401, and 54.1-3446 of the Code of Virginia, relating to industrial hemp; emergency.

21103790D

Summary as passed Senate:

Industrial hemp; federal hemp producer license; emergency. Updates Virginia's industrial hemp laws to address the new hemp producer license issued by the U.S. Department of Agriculture. The bill changes drug laws to exclude the industrial hemp possessed by a federally licensed hemp producer from the definition of "marijuana" and to exclude certain amounts of tetrahydrocannabinol (THC) in such industrial hemp from the prohibition on THC. The bill exempts federally licensed hemp producers from state industrial hemp registration requirements and adds such producers to the list of those eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund.

The bill makes other changes to industrial hemp laws, including (i) excluding from the definition of "dealer" any retail establishment that sells a completed product containing industrial hemp; (ii) making optional the monitoring and random testing of industrial hemp by the Commissioner of Agriculture and Consumer Services and authorizing the random sampling of such hemp; (iii) removing the requirement that the Attorney General of the United States be notified when a Virginia grower, dealer, or processor exceeds the federal THC limit; and (iv) directing the Commissioner to adopt regulations establishing a fee structure for registration.

Finally, the bill exempts employees of the Virginia Department of Agriculture and Consumer Services from prosecution for possession or distribution of industrial hemp when possession is necessary in the performance of their duties. The bill contains an emergency clause.

EMERGENCY

02/25/21 Senate: Senators: Ruff, McClellan, Peake
02/25/21 House: Conferees appointed by House
02/25/21 House: Delegates: Simon, Sullivan, Marshall
03/01/21 Senate: No further action taken
03/01/21 Senate: Failed to pass

SB 1135 Dangerous dogs; restructures procedure for adjudication, penalty.

Chief patron: Marsden

An Act to amend and reenact §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.2-6540.01 through 3.2-6540.04, 3.2-6541.1, 3.2-6542.1, 3.2-6542.2, 3.2-6543.1, 3.2-6562.2, and 18.2-52.2 relating to dangerous dogs; penalty.

Summary as passed:

Dangerous dogs; procedure for adjudication; penalty. Restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer

confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court if deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication.

The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned.

The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor.

Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains technical amendments.

02/25/21 Senate: Signed by President

02/26/21 House: Signed by Speaker

03/01/21 Senate: Impact statement from DPB (SB1135ER)

03/01/21 Senate: Enrolled Bill Communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

SB 1188 Virginia Agriculture Food Assistance Program and Fund; established and created.

Chief patron: Hashmi

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 47.1, consisting of sections numbered 3.2-4780 through 3.2-4783, relating to the Virginia Agriculture Food Assistance Program and Fund; established.

Summary as passed:

Virginia Agriculture Food Assistance Program and Fund; established. Requires the Commissioner of Agriculture and Consumer Services (the Commissioner) to establish the Virginia Agriculture Food Assistance Program (VAFA Program) for Virginia farmers and food producers to donate, sell, or otherwise provide agriculture products to charitable food assistance organizations. The bill also creates the Virginia Agriculture Food Assistance Fund to disburse moneys to such charitable food assistance organizations to reimburse farmers or food producers for any costs associated with harvesting, processing, packaging, or transporting agriculture products donated to such charitable food assistance organizations. The bill authorizes the Commissioner to adopt guidelines and regulations to carry out the VAFA Program, which must prohibit grant recipients from attributing more than 10 percent of the grant amount to administrative costs. This bill is identical to HB 2203.

03/09/21 Senate: Signed by President

03/11/21 House: Signed by Speaker

03/15/21 Senate: Enrolled Bill Communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/17/21 Senate: Impact statement from DPB (SB1188ER)

SB 1193 Dairy Producer Margin Coverage Premium Assistance Program; established.

Chief patron: Obenshain

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 33.1, consisting of sections numbered 3.2-3304 through 3.2-3307, relating to Dairy Producer Margin Coverage Premium Assistance Program; report.

Summary as passed:

Dairy Producer Margin Coverage Premium Assistance Program. Directs the Commissioner of Agriculture and Consumer Services to establish and administer the Dairy Producer Margin Coverage Premium Assistance Program (the Program). The bill provides that any dairy farmer that has a resource management plan or nutrient management plan and participates in the federal margin coverage program for dairy producers at the tier I level as contained in the federal Agriculture Improvement Act of 2018 is eligible to participate in the Program. Under the bill, each year a Program participant will receive a refund of its annual premium payment paid into the federal program. Such reimbursement shall be provided on a first-come, first-served basis and shall be subject to availability of funds expressly appropriated for the purposes set forth in the chapter. The Commissioner shall submit an annual report no later than December 1 of each year to the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources assessing the effectiveness of the Program. The bill has an expiration date of July 1, 2023. This bill is identical to HB 1750.

02/24/21 Senate: Signed by President

02/25/21 Senate: Impact statement from DPB (SB1193ER)

02/25/21 House: Signed by Speaker

03/01/21 Senate: Enrolled Bill Communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

SB 1194 Produce safety; removes the sunset date.

Chief patron: Obenshain

An Act to amend and reenact the second enactment of Chapter 574 of the Acts of Assembly of 2017, relating to produce safety; sunset.

Summary as introduced:

Produce safety; sunset. Removes the sunset date for Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 on produce safety, which was enacted in 2017 and set to expire upon the effective date of the repeal of certain federal regulations or on July 1, 2022, whichever occurs sooner. The chapter will still expire upon the effective date of the repeal of such federal regulations that require the provisions of Chapter 51.1 to exist.

02/18/21 House: Signed by Speaker

02/22/21 Senate: Enrolled Bill Communicated to Governor on February 22, 2021

02/22/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

02/25/21 Governor: Approved by Governor-Chapter 32 (effective 7/1/21)

02/25/21 Governor: Acts of Assembly Chapter text (CHAP0032)

SB 1390 Cats; trap, neuter, and return programs, civil penalty.

Chief patron: Lewis

A BILL to amend and reenact §§ 3.2-6500, 3.2-6524, 3.2-6546, and 3.2-6551 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.2-6579.1, relating to cats; trap, neuter, and return programs; civil penalty.

21102789D

Summary as passed Senate:

Cats; trap, neuter, and return programs; civil penalty. Authorizes any public or private animal shelter, releasing agency, or hospital or clinic that is operated under the immediate supervision of a duly licensed veterinarian to operate a trap, neuter, and return program, as defined in the bill. The bill exempts volunteers of such program from provisions related to abandonment and licensing of animals and

exempts the operator from general requirements of shelters related to holding periods, release of animals, and recordkeeping. A person who violates certain required provisions for such a program is subject to a civil penalty not to exceed \$150 brought by any animal control officer, humane investigator, releasing agency, or the State Veterinarian or State Veterinarian's representative.

02/05/21 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

02/08/21 House: Continued to Special Session 1 in Agriculture, Chesapeake and Natural Resources

02/09/21 House: Assigned ACNR sub: Agriculture

02/17/21 House: Subcommittee recommends laying on the table (5-Y 3-N)

03/01/21 House: Left in Agriculture, Chesapeake and Natural Resources

SB 1406 Marijuana; legalization of simple possession, etc.

Chief patron: Ebbin, Lucas

An Act to amend and reenact

Summary as passed:

Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly. This bill incorporates SB 1243 and is identical to HB 2312. See S. B. 1406 Enrolled PDF text:

<https://lis.virginia.gov/000/senatecannabisenrolled.pdf>

03/09/21 Senate: Signed by President

03/11/21 House: Signed by Speaker

03/15/21 Senate: Enrolled Bill Communicated to Governor on March 15, 2021

03/15/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

03/19/21 Senate: Impact statement from DPB (SB1406ER)

SB 1411 Peanuts; extends sunset date of excise tax on all peanuts grown in Virginia.

Chief patron: Lucas

An Act to amend and reenact § 3.2-1905 of the Code of Virginia, relating to the excise tax on peanuts.

Summary as introduced:

Excise tax on peanuts. Extends from July 1, 2021, to July 1, 2026, the sunset date of the excise tax on all peanuts grown in Virginia and reduces from \$0.30 per 100 pounds to \$0.25 per 100 pounds the excise tax rate. The proceeds from this tax are used for promoting the sales and use of Virginia peanuts. This bill is identical to HB 1751.

02/18/21 House: Signed by Speaker

02/22/21 Senate: Enrolled Bill Communicated to Governor on February 22, 2021

02/22/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

02/24/21 Senate: Impact statement from TAX (SB1411ER)

03/18/21 Governor: Approved by Governor-Chapter 121 (effective 7/1/21)

SB 1412 Pet shops, dealers, and dog breeders; employees convicted of animal abuse, penalty.

Chief patron: Stanley

An Act to amend and reenact §§ 3.2-6511.1 and 3.2-6511.2 of the Code of Virginia, relating to pet shops, dealers, and dog breeders; employees convicted of animal abuse; penalty.

Summary as passed Senate:

Pet shops, dealers, and dog breeders; employees convicted of animal cruelty; penalty. Prohibits any person from serving as an owner, director, officer, manager, operator, member of staff, or animal caregiver for a pet shop, dealer, or commercial dog breeder if such person has been convicted of animal cruelty. The bill prohibits pet shops from selling or giving for adoption a dog without first obtaining a signed statement from the purchaser or adopter that such person has never been convicted of animal cruelty. A violation of any such requirement is a Class 1 misdemeanor.

02/25/21 Senate: Signed by President

02/26/21 House: Signed by Speaker

03/01/21 Senate: Impact statement from DPB (SB1412ER)

03/01/21 Senate: Enrolled Bill Communicated to Governor on March 1, 2021

03/01/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

SB 1417 Animal testing facilities; definitions, adoption of dogs and cats, civil penalty.

Chief patron: Stanley

An Act to amend and reenact § 3.2-6591 of the Code of Virginia and to amend the Code of Virginia by adding in Article 13 of Chapter 65 of Title 3.2 a section numbered 3.2-6593.1, relating to animal testing facilities; adoption of dogs and cats; civil penalty.

Summary as passed Senate:

Animal testing facilities; adoption of dogs and cats; civil penalty. Requires any animal testing facility, defined in the bill, that no longer has need for a dog or cat in its possession that does not pose a health or safety risk to the public or itself to offer, for a reasonable period of time prior to euthanasia, such dog or cat for adoption to a releasing agency or through a private placement or in the case of a testing facility operated by an agency or institution of higher education, develop its own adoption program. The bill authorizes an animal testing facility to enter into an agreement with a releasing agency for the implementation of the adoption. Violation is subject to a civil penalty of not more than \$5,000 and any court costs and attorney fees.

02/24/21 Senate: Impact statement from DPB (SB1417ER)

02/24/21 Senate: Signed by President

02/25/21 House: Signed by Speaker

02/26/21 Senate: Enrolled Bill Communicated to Governor on February 26, 2021

02/26/21 Governor: Governor's Action Deadline 11:59 p.m., March 31, 2021

Counts: HB: 10 HJ: 1 SB: 10

Department of Planning and Budget 2021 Special Session I Fiscal Impact Statement

1. Bill Number: HB2312ER

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Herring

3. Committee: Passed Both Houses

4. Title: Legalization of simple possession of marijuana

5. Summary: The bill provides the following:

It repeals the following sections of the Code of Virginia:

- § 18.2-248.1, which establishes penalties for sale, gift, distribution, or possession with intent to sell, give, or distribute marijuana;
- § 18.2-250.1, which establishes that the possession of marijuana is unlawful and assesses a \$25 civil penalty for violations; and
- § 18.2-251.1, which permits possession or distribution of marijuana for medical purposes.

It establishes a 20-member Cannabis Equity Reinvestment Board in the executive branch of state government, to be chaired by the Director of Diversity, Equity, and Inclusion or his/her designee. The Board must be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties. This provision becomes effective on July 1, 2021 (Enactment #7).

The bill (§2.2-2499.4) establishes a Cannabis Equity Reinvestment Fund (Fund). Moneys in the Fund must be used solely for the purposes of:

- Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement;
- 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;
- 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;
- Contributing to the Virginia Indigent Defense Commission established pursuant to § 19.2-163.01; and
- Contributing to the Virginia Cannabis Equity Business Loan Fund established pursuant to §4.1-1501.

The bill amends § 2.2-2818 related to health and related insurance for state employees and adds employees of the Virginia Cannabis Control Authority to the provisions. It provides that the Office of the Attorney General may provide legal service in civil matters for members, agents or employees of the Virginia Cannabis Control Authority (§2.2-507)

The bill allows the Virginia Board of Agriculture and Consumer Services (VDACS) to establish a criteria for or a list of pesticides that may be used on cannabis cultivated, and amends the definitions of certain hemp-related terms (§3.2-4112). It requires the Board of Agriculture and Consumer Services to promulgate regulations to implement the provisions of this act by July 1, 2023 (Enactment #15)

The bill also allows the Commissioner of VDACS to charge a nonrefundable fee not to exceed \$50 for any license, and requires the Commissioner to notify the Superintendent of State Police of the locations of all hemp testing laboratories, and provide a copy of the license issued to the chief law-enforcement officer of the county or city where a hemp testing laboratory will be located (§3.2-4114.2). It requires the Commissioner to establish a licensure program to allow a laboratory to test industrial hemp or hemp products and to inspect each location at which the laboratory tests hemp. The bill requires that if the results of a test indicate that the tested hemp product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant for which testing is required, a hemp testing laboratory must, within seven days of completing the test, notify the Commissioner of the test results. For each day any violation of this section occurs, the Commissioner may assess a penalty not to exceed: (i) \$1,000 for a first violation, (ii) \$5,000 for a second violation, and (iii) a six-month license suspension for a third or subsequent violation within a five-year period. All penalties collected by the Commissioner pursuant to this subsection shall be deposited in the state treasury (§3.2-4117.1 and § 3.2-4117.2).

The bill establishes requirements for testing, packaging, labeling, and advertising of hemp products: (i) intended for smoking or (ii) that is or includes an industrial hemp extract intended for human consumption distributed, offered for sale, or sold in the Commonwealth. For any violation of these requirements by a processor or by a retail establishment, the Commissioner may assess a penalty not to exceed: (i) \$100 for a first violation, (ii) \$200 for a second violation, and (iii) \$500 for a third or subsequent violation (§3.2-4122).

The legislation requires a processor to destroy the batch of hemp product intended for smoking or consumption whose testing sample exceeds the maximum level of allowable contamination for each contaminant established unless remedial measures can bring the hemp product into compliance with such regulation. Penalties for violating this subsection by a processor, is a fine not to exceed: (a) \$100 for a first violation, (b) \$200 for a second violation, and (c) \$500 for a third or subsequent violation. All penalties collected by the Commissioner pursuant to this subsection must be deposited in the state treasury.

The bill defines “Edible Marijuana Products” and requires the adoption of regulation by VDACS, and amends Title 4.1 to Alcoholic Beverage and Cannabis Control and adds Subtitle I, Alcoholic Beverage Control Act expanding the definitions under the Act. It creates Chapter 6 (Subtitle II) and defines marijuana to mean 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. It also defines "Special agent" to mean an employee of the Virginia Cannabis Control Authority whom the Board has designated as a law-enforcement officer.

The bill (§4.1-601) creates the Virginia Cannabis Control Authority as an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government. The bill outlines the responsibilities of the Board of Directors of the Authority. The Virginia Cannabis Control Authority consists of the Virginia Cannabis Board of Directors, Cannabis Public Health Advisory Council, the Chief Executive Officer, and the agents and employees of the Authority (§4.1-602). This provision is effective on July 1, 2021 (Enactment #7).

The bill also establishes a 21-member Cannabis Public Health Advisory Council (Advisory Council) as an advisory council to the Cannabis Control Authority Board of Directors for the purpose of assessing and monitoring public health issues, and trends, related to marijuana and marijuana legalization, and making recommendations regarding health warnings, retail marijuana, and retail marijuana products safety and product composition, and public health awareness, programming, and related resource needs (§4.1-603). This provision is effective on July 1, 2021 (Enactment #7).

The bill establishes powers and duties of the Cannabis Control Authority Board of Directors, which include, among other items, it provides that the Board of Directors will have the power, among other things, to 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. The Board of Directors also has the power to establish a position for a Cannabis Social Equity Liaison to 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 (§4.1-604).

The Authority has power to, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and other employees and special agents and fix their compensation to be payable from funds made available to the Authority. The Board is also authorized to assess and collect civil penalties and civil charges for violations of this subtitle and Board regulations and establish and collect fees for all permits. The bill requires the Attorney General to provide legal services for the Authority. This provision is effective on July 1, 2021 (Enactment #7).

The bill also creates § 4.1-606, concerning regulations of the Board, and the types of regulations it may promulgate, including the establishment of criteria by which to evaluate social equity license applicants. It also limits the number of licenses issued by type or class to operate a marijuana establishment. It provides that the Authority be governed by Board of Directors who shall receive annual salary, compensation, and reimbursement of expenses (§ 4.1-607), and for the appointment, salary, and powers of the Board's Chief Executive Officer, who must be appointed by the Governor and confirmed by the General Assembly (§ 4.1-608).

The bill provides (§ 4.1-613) a process by which the Board must handle any money collected; and provides under (§ 4.1-614) what constitutes an Enterprise Fund for the payment of the salaries and remuneration of the members, agents, and employees of the Board and all costs and expenses incurred by the administration of the Board.

All moneys collected by the Board must be paid directly and promptly into the state treasury, or 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. All moneys so paid into the state treasury, less the net profits determined, must 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. The net profits 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 net profits shall be appropriated in the general appropriation act as follows:

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

"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.

All local tax revenues collected must be paid into the state treasury and credited to a special fund, titled "Collections of Local Marijuana Taxes." The revenues must 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 is required to 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 for this purpose. 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.

The Authority is exempted from personnel and procurement procedures, information systems (§ 4.1-617); employees of the Authority are to be considered employees of the Commonwealth. Employees are eligible for membership in the Virginia Retirement System or other retirement plan as authorized by law, 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 (§ 4.1-623). It provides for police power of members, agents, and employees of the Board (§ 4.1-624). It provides for local referendum to prevent establishment of retail marijuana stores. (§ 4.1-629 through § 4.1-631).

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 must 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 (§ 4.1-611). This provision is effective on July 1, 2021 (Enactment #7).

The Board may issue, including marijuana cultivation facility licenses (§ 4.1-800), marijuana manufacturing facility licenses (§ 4.1-801), marijuana testing facility licenses (§ 4.1-802), marijuana wholesaler licenses (§ 4.1-803), and retail marijuana store licenses (§ 4.1-804). It provides a process for multiple licenses and any person who wishes to possess a license in more than one license category must pay a \$1 million fee to the Board. The Board must allocate such fees to the following: (i) the Virginia Cannabis Equity Loan Fund, (ii) the Virginia Cannabis Equity Reinvestment Fund, or (iii) a program, as determined by the Board, which provides job training services to persons recently incarcerated (§ 4.1-805).

The remainder of the section concerns the provision of such licenses, including instances in which the Board may refuse such licenses (§ 4.1-809 and § 4.1-810). Section 4.1-900 provides grounds for which the Board may suspend or revoke licenses, summary suspension in emergency circumstances, including duties to provide notice and to hold a hearing (§ 4.1-901), and to impose civil penalties (§ 4.1-903). In suspending any license, the Board may impose and collect such civil penalties as it deems appropriate.

The civil penalties cannot exceed \$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 retail marijuana or retail marijuana products to a person prohibited from purchasing retail marijuana or retail 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. It also establishes civil penalties (§4.1-702) for licensees who fail to pay the required license fee in a timely manner and the moneys are to be deposited into the state treasury.

Section 4.1-1003 establishes the marijuana tax, which would be levied on the sale of any retail marijuana, retail marijuana products, paraphernalia, non-retail marijuana, and non-retail marijuana products at the rate of 21 percent, and provides for exceptions to this tax. The tax shall be in addition to any tax imposed under Chapter 6 (§ 58.1-600 et seq.) or any other provision of federal, state, or local law. The tax shall not apply to any sale:

- From a marijuana establishment to another marijuana establishment.
- Of cannabis oil for treatment under the provisions of § 54.1-3408.3.
- Of industrial hemp by a grower, processor, or dealer.
- Of industrial hemp extract or food containing an industrial hemp extract.

Revenues remitted to the Authority must be disposed of as provided in § 4.1-614. The bill also provides for an optional local marijuana tax (§ 4.1-1004). Specifically, it provides that any locality may by ordinance levy a three percent tax on any sale taxable under § 4.1-1003. The tax is in addition to any local sales tax imposed under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, 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 cannot impose any other tax on a sale taxable under § 4.1-1003.

If a town imposes a tax under this section, any tax imposed by its surrounding county under this section does not apply within the limits of the town. Additionally, localities are not prohibited from imposing any tax authorized by law on a person or property regulated under this subtitle. However, localities can impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under § 4.1-1003 if such tax or fee is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or privilege tax authorized by law, and such tax includes sales or receipts taxable under § 4.1-1003 in its taxable measure.

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

Tax levied under this section must be administered and collected by the Authority in the same manner as provided for the tax imposed under § 4.1-1003. Revenues remitted to the Authority under this section shall be disposed of as provided in § 4.1-614.

It further establishes the Virginia Cannabis Equity Business Loan Program and Fund. The Program must provide low interest and zero-interest loans to qualified social equity qualified cannabis in order to foster business ownership and economic growth within communities that have been the most disproportionately impacted by the former prohibition of cannabis. (§4.1-

1501). The Authority must select and work in collaboration with a community development financial institution (CDFI) to assist in administering the Program.

The bill establishes a legal age of 21 for individuals to lawfully possess not more than one ounce of marijuana or an equivalent amount of marijuana product (§ 4.1-1100). Possessing marijuana or marijuana products in excess of one ounce is punishable by a civil penalty of no more than \$25, which must be deposited into the Drug Offender Assessment and Treatment Fund. Persons who possess more than one pound of marijuana or an equivalent amount of marijuana product, with the exception of licensees performing their duties, law enforcement officers, jail officers, or correctional officers who are certified drug detection dog handlers, are guilty of a felony punishable by a term of imprisonment of between one and ten years, and a fine of not more than \$250,000, or both.

The bill provides that persons who are 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence (§ 4.1-1101). It also creates Class 6 felony for any person who cultivates or manufactures marijuana or marijuana products in the Commonwealth without being licensed to cultivate or manufacture such marijuana or marijuana products and for persons who conspire together to violate this section (§4.1-1102). If any person who is not licensed sells, gives, or distributes any marijuana or marijuana products he is guilty of a Class 2 misdemeanor. A second or subsequent conviction under this section is a Class 1 misdemeanor (§ 4.1-1103); there are penalties for selling marijuana or marijuana products to any person under the age of 21 and provides a criminal penalty (§4.1-1104). It creates § 4.1-1105, concerning instances in which the purchase of marijuana or marijuana products is considered unlawful and provides for a civil penalty of \$25 for the consumption, purchase, possession, or attempt to do so of marijuana by persons under 18 years of age.

Section 4.1-1106 sets forth penalties, forfeitures for purchasing retail marijuana or retail marijuana products for one to whom they should not be sold to, and § 4.1-1107 provides penalty for using or consuming marijuana or marijuana products while in a motor vehicle being driven upon a public highway. Additionally, §4.1-1108 through §4.1-1120 provides for criminal and civil penalties for various violations of Chapter 11 (Possession of Retail Marijuana and Retail Marijuana products).

Additionally, as a term or condition a court must require the person to undergo a substance abuse assessment and enter a treatment or an education program provided by 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; a local community-based probation services agency established pursuant to § 9.1-174; or an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP). Chapter 12 outlines the penalties for prohibited practices by licensees, including illegal cultivation of marijuana or marijuana products by licensees (§4.1-1105).

It amends 16.1-69.48:1. (Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added) and adds the newly created §4.1-1120.

Additionally, any person who has been sentenced to jail or to the Department of Corrections for a marijuana offense, with some exceptions, may, at any time before the sentence has been

completely served, file a motion with the court that heard the case for a resentencing hearing. If it appears compatible with the public interest and there are circumstances in mitigation of the offense, including the legalization of marijuana, such court may reduce, suspend or otherwise modify such person's sentence at any time before such person's sentence has been completely served. The petitioner is entitled to counsel if he claims to be indigent.

Additionally, the proposed legislation provides that it is unlawful under § 46.2-341.20:7 for any person to knowingly or intentionally possess marijuana or marijuana oil in a commercial motor vehicle, unless it was obtained directly from or pursuant to a valid prescription or order of a practitioner, or as otherwise authorized in the Federal Drug Control Act. Violations are punishable by a civil penalty of no more than \$25.

The bill provides the following enactments:

- Enactment clause #3 provides that, except as provided in the fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, and twenty-first, twenty-second, twenty-third, twenty-fourth and twenty fifth enactments of this act, the provisions of this act shall become effective on January 1, 2024.
- Enactment clause #4 provides that the provisions of §4.1-629 of the Code of Virginia, as created by this act, shall become effective on July 1, 2022.
- Enactment clause #5 provides that, subject to the provisions of the tenth and twelfth enactments, the provisions of (i) §§ 4.1-630 and 4.1-631 of the Code of Virginia, as created by this act, and (ii) Chapter 7 (§ 4.1-700 et seq.), except clause (iv) of § 4.1-700, Chapter 8 (§ 4.1-800 et seq.), Chapter 9 (§ 4.1-900 et seq.), Chapter 10 (§ 4.1-1000 et seq.), Chapter 12 (§ 4.1-1200 et seq.), and Chapter 14 (§ 4.1-1400 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 1, 2023.
- Enactment clause #6 provides that the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2, §§ 4.1-600 through 4.1-628, 4.1-1100, 4.1-1105.1, 4.1-1121 of the Code of Virginia, as created by this act; Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act; §19.2-389.3 of the Code of Virginia, as amended by this act, and (ii) the repeal §18.2-250.1 of the Code of Virginia, the provisions of the first, second, third, fourth, fifth, and tenth enactments of this act shall not become effective unless reenacted by the 2022 Session of the General Assembly. The provisions of §4.1-1105.1 of the Code of Virginia, as created by this act, shall not become effective if the provisions of the first, second, and third enactments of this act are reenacted by the 2022 Session of the General Assembly.
- Enactment clause #7 provides that the provisions of Article 29 (§ 2.2-2499.1 et seq.) of Chapter 24 of Title 2.2 of the Code of Virginia, as created by this act, §§ 4.1-600 through 4.1-628 of the Code of Virginia, as created by this act, and Chapter 15 (§ 4.1-1500 et seq.) of Title 4.1 of the Code of Virginia, as created by this act, shall become effective on July 2, 2021.
- Enactment clause #8 provides that the provisions of §19.2-389.3 of the Code of Virginia, as amended by this act, shall become effective on July 1, 2025.
- Enactment clause #9 provides that the Board of Directors of the Virginia Cannabis Control Authority must promulgate regulations to implement the provisions of this act

by July 1, 2023; however, the Board shall not adopt such regulations prior to July 1, 2022, and shall present such regulations to the Cannabis Oversight Commission for review prior to adoption. 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 12906 apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, 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 regulations; (ii) the text of the proposed regulations; 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 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations pursuant to this act. The Board shall consider and keep on file all public comments received for any regulations adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

- Enactment clause #10 provides that the Virginia Cannabis Control Authority (the Authority) may start accepting applications for licenses pursuant to the provision of § 4.1-1000 of the Code of Virginia, as created by this act, on July 1, 2023, and shall, from July 1, 2023, until January 1, 2024, give preference to qualified social equity applicants, as determined by regulations promulgated by the Board of Directors of the Authority in accordance with this act. The Authority may issue any license authorized by this act to any applicant that meets the requirements for licensure established 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 January 1, 2024; however, (i) no retail marijuana store licensee may sell retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds, and (ii) no marijuana cultivation facility licensee may sell immature marijuana plants, or marijuana seeds to a consumer prior to January 1, 2024. Notwithstanding any other provision of law, on or after July 1, 2023, and prior to January 1, 2024, no marijuana cultivation facility licensee, marijuana manufacturing facility licensee, marijuana wholesaler 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 §§ 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 or 18.2-250.1 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 Subtitle II (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia, as created by this act. From July 1, 2023, to July 1, 2028, the Authority shall (a) reserve a license slot for a qualified social equity applicant for every license that was initially granted to a social equity applicant and was subsequently surrendered and (b) reserve license slots for all pharmaceutical processors that have been issued a permit by the Board of Pharmacy pursuant to Article 4.2 (§ 54.1-3442.5 et seq. of the Code of Virginia) of the Drug Control Act and issue a cultivation, manufacturing, wholesale, and

retail license to any such pharmaceutical processor that meets the applicable licensing requirements. The Authority shall ensure that geographic dispersion is achieved regarding the issuance of retail marijuana store licenses and shall reassess the issuance of retail marijuana store licenses at the following intervals to ensure that geographic dispersion is maintained: after issuance of 100 licenses, 200 licenses, and 300 licenses. The provisions of this enactment shall become effective July 1, 2022.

- Enactment clause #11 provides that the Virginia Cannabis Control Authority (the Authority) shall develop and implement its diversity, equity, and inclusion plan pursuant to § 4.1-604 of the Code of Virginia, as created by this act, and publish resources to assist social equity applicants by January 1, 2023. The Authority shall, in consultation with the Secretaries of Public Safety and Homeland Security, Transportation, and Health and Human Resources, develop and implement a health, safety, and safe driving campaign by January 1, 2023. The provisions of this enactment shall become effective in due course.
- Enactment clause #12 provides that the sale of retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds by retail marijuana store licensees and the sale of immature marijuana plants and marijuana seeds by marijuana cultivation facility licensees shall be permitted on and after January 1, 2024. The provisions of this enactment shall become effective in due course.
- Enactment clause #13 provides that the initial terms of office of those persons appointed to serve as non-legislative citizen members on the Cannabis Equity Reinvestment Board pursuant to § 2.2-2499.1 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; four persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, non-legislative citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years. The provisions of this enactment shall become effective in due course.
- Enactment clause #14 provides that the initial terms of office of those persons appointed to serve as non-legislative citizen members on the Cannabis Public Health Advisory Council pursuant to § 4.1-603 of the Code of Virginia, as created by this act, shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2025; five persons shall be appointed for a term to expire June 30, 2026; and four persons shall be appointed for a term to expire June 30, 2027. Thereafter, non-legislative citizen members of the Cannabis Public Health Advisory Council shall serve for terms of four years. The provisions of this enactment shall become effective in due course.
- Enactment clause #15 provides that the Board of Agriculture and Consumer Services shall promulgate regulations required by subsections C and D of § 3.2-4114 of the Code of Virginia, as amended by this act, to become effective by July 1, 2023. The provisions of this enactment shall become effective in due course.
- Enactment clause #16 provides that the Secretaries of Agriculture and Forestry, Health and Human Resources, and Public Safety and Homeland Security shall convene a work group with all appropriate state agencies and authorities to develop a plan for identifying and collecting data that can determine the use and misuse of marijuana in order to determine appropriate policies and programs to promote public health and safety. The plan shall include marijuana-related data regarding (i) poison control center calls; (ii)

hospital and emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use, mode of use, and demographic information for vulnerable populations, including youth and pregnant women; and (v) treatment rates for cannabis use disorder and any other diseases related to marijuana use. The plan shall detail the categories for which each data source will be collected, including the region where the individual lives or the incident occurred and the age and the race or ethnicity of the individual. The plan shall also include the means by which initial data will be collected as soon as practicable as a benchmark prior to the effective date of an act legalizing marijuana for adult use, the plan for regular collection of such data thereafter, and the cost of the initial and ongoing collection of such data. The plan shall also recommend a timetable and determine the cost for analyzing and reporting the data. The work group, in consultation with the Director of Diversity, Equity, and Inclusion, shall also recommend metrics to identify disproportionate impacts of marijuana legalization, if any, to include discrimination in the Commonwealth's cannabis industry. The work group shall report its findings and recommendations to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

- Enactment clause #17 provides that the Virginia Department of Education, with assistance from appropriate agencies, local school divisions, and appropriate experts, shall implement a plan to ensure that teachers have access to sufficient information, resources, and lesson ideas to assist them in teaching about the harms of marijuana use among the youth and about substance abuse, as provided in the 2020 Health Standards of Learning. The Department shall (i) review resources currently provided to teachers to determine if additional or updated material or lesson ideas are needed and (ii) provide or develop any additional materials and resources deemed necessary and make the same available to teachers by January 1, 2024. The provisions of this enactment shall become effective in due course.
- Enactment clause #18. That the Secretary of Education, in conjunction with the Virginia Department of Education, shall develop a plan for introducing teachers, particularly those teaching health, to the information and resources available to them to assist them in teaching the 2020 Health Standards of Learning as it relates to marijuana use. Such plan shall include providing professional development webinars as soon as practicable, as well as ongoing periodic professional development relating to marijuana, as well as alcohol, tobacco, and other drugs as appropriate. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.
- Enactment clause #19 provides that the Secretary of Education, the State Council of Higher Education for Virginia, the Virginia Higher Education Substance Use Advisory Committee, and the Department of Behavioral Health and Developmental Services shall work with existing collegiate recovery programs to determine what, if any, additional evidence-based efforts should be undertaken for college-aged individuals to promote education and prevention strategies relating to marijuana. The plan shall include the estimated cost of implementation and any potential source of funds to cover such cost and shall be submitted to the Governor and the General Assembly by November 1, 2021. The provisions of this enactment shall become effective in due course.

- Enactment clause #20 provides that the effective July 1, 2021, the Regulations Governing Pharmaceutical Processors (18VAC110-60) promulgated by the Board of Pharmacy (the Board) shall remain in full force and effect and continue to be administered by the Board of Pharmacy until the Board of Directors of the Virginia Cannabis Control Authority (the Authority) promulgates regulations pursuant to the ninth enactment of this act and no later than July 1, 2023. The Board shall provide assistance to the Board of Directors of the Authority in promulgating regulations by July 1, 2023. The provisions of this enactment shall become effective in due course.
- Enactment clause #21 provides that there shall be established a Cannabis Oversight Commission (the Commission), which shall consist of 10 members of the General Assembly. Members shall be appointed as follows: six members of the House of Delegates who are members of the House Committee on Appropriations, House Committee for Courts of Justice, or the House Committee on General Laws to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and four members of the Senate who are members of the Senate Committee on Finance and Appropriations, the Senate Committee on the Judiciary, or the Senate Committee on Rehabilitation and Social Services to be appointed by the Senate Committee on Rules. The Commission shall elect a chairman and vice-chairman from among its membership; however, the chairman and vice-chairman shall not both be members of the House of Delegates, nor shall both the chairman and vice-chairman be members of the Senate. No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission. The Commission shall exercise the function of overseeing the implementation of the provisions of this act and shall convene regularly in the exercise of that function. The Virginia Cannabis Control Authority (the Authority) shall report to the Commission at the Commission's request. The Commission shall expire on January 1, 2024. The provisions of this enactment shall become effective in due course.
- Enactment clause #22 provides 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, 2022. A referendum on such question shall not be permitted in a locality after January 1, 2023, unless such referendum follows a referendum held prior to December 31, 2022, 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. The provisions of this enactment shall become effective July 1, 2022.
- Enactment clause #23 provides that the Office of the Executive Secretary shall report to the chairmen of the Senate Committee on the Judiciary, the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the House Committee for Courts of Justice by November 1, 2021, and by November 1 each year thereafter regarding the number of civil offenses committed and civil penalties imposed for violations of § 18.2-250.1 of the Code of Virginia, as repealed by this act.
- Enactment clause #24 provides that the Joint Legislative Audit and Review Commission (JLARC) shall (i) analyze the provisions of this act, (ii) compare such provisions to

JLARC Report 542 (2020), and (iii) report its findings to the General Assembly by November 1, 2021.

- Enactment clause #25 provides 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 1289 of the Acts of Assembly of 2020 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. The provisions of this enactment shall become effective in due course.

6. Budget Amendment Necessary: Yes. Items 143 (DOE) and 425 (VSP). See Line 8.

7. Fiscal Impact Estimates: Final. See Line #8.

8. Fiscal Implications: The proposed bill is expected to impact several state agencies and potentially all counties and cities.

Revenue Impact

According to the Virginia Department of Taxation, and based upon projected marijuana sales in Virginia as determined by JLARC in conjunction with MPG Consulting, it is estimated that this bill could generate total revenues ranging between \$13.8 million and \$23.0 million in FY 2024; \$67.4 million and \$112.6 million in FY 2025; \$103.8 million and \$173.0 million in FY 2026; and \$135.6 million and \$225.9 million in FY 2027.

The higher end of this range reflects optimistic estimates of illegal market conversion, relative equilibrium between supply and demand, and that no other states or the federal government also legalize these products. The lower end reflects less optimistic estimates of illegal market conversion, possible periods of disequilibrium between supply and demand, and the possibility that surrounding states or the federal government also would legalize marijuana. The FY 2024 estimates are based on five months of collections.

Below is the distribution of total revenues based upon the lower end estimates:

	FY 2024*	FY 2025	FY 2026
GF - Unrestricted	\$1,200,000	\$5,700,000	\$8,800,000
GF - Restricted	\$600,000	\$2,800,000	\$4,300,000
Transportation	\$500,000	\$2,300,000	\$3,500,000
Local Option	\$500,000	\$2,500,000	\$3,900,000
Other	\$300,000	\$1,200,000	\$1,900,000
Pre-K (40 percent)	\$4,300,000	\$21,200,000	\$32,600,000
Cannabis Equity (30 percent)	\$3,200,000	\$15,900,000	\$24,400,000
Substance Use Disorder (25 percent)	\$2,700,000	\$13,200,000	\$20,300,000
Public Health Programs (5 percent)	\$500,000	\$2,600,000	\$4,100,000

21 Percent Excise Rate + Retail Sales and Use Tax	\$13,800,000	\$67,400,000	\$103,800,000
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Below is the distribution of total revenues based upon the higher end estimates:

	FY 2024*	FY 2025	FY 2026
GF - Unrestricted	\$1,900,000	\$9,500,000	\$14,600,000
GF - Restricted	\$1,000,000	\$4,700,000	\$7,200,000
Transportation	\$800,000	\$3,800,000	\$5,800,000
Local Option	\$900,000	\$4,200,000	\$6,500,000
Other	\$400,000	\$2,100,000	\$3,200,000
Pre-K (40 percent)	\$7,200,000	\$35,300,000	\$54,300,000
Cannabis Equity (30 percent)	\$5,400,000	\$26,500,000	\$40,700,000
Substance Use Disorder (25 percent)	\$4,500,000	\$22,100,000	\$33,900,000
Public Health Programs (5 percent)	\$900,000	\$4,400,000	\$6,800,000
21 Percent Excise Rate + Retail Sales and Use Tax	\$23,000,000	\$112,600,000	\$173,000,000

The Virginia Department of Agriculture and Consumer Services (VDACS) may generate additional revenue from the licensing of hemp testing laboratories. The license fee likely will be an amount not to exceed \$50. The potential number of hemp testing laboratories that may be licensed is unknown, therefore, the revenue that could be generated cannot be determined. The bill also provides that the VDACS Commissioner may assess civil penalties: (1) if a tested hemp product exceeds the maximum level of allowable contamination, (2) for violations of labeling, testing and advertising of hemp products, or (3) for failure to destroy the hemp product intended for smoking or consumption whose testing sample exceeded the maximum level of allowable contamination. The penalty ranges from \$100 to \$5,000 with all penalties collected deposited into the state treasury. It is reasonable to conclude that some revenue will be generated from civil penalties, however, the amount collected cannot be determined.

Expenditure Impact

The following table summarizes the estimated expenditure impact of this legislation:

	FY 2021	FY 2022	FY 2023	FY 2024
Virginia State Police (VSP)				
1 Fingerprint Technician Trainee FTE	0	\$81,026	\$81,026	\$81,026
1 Program Support Technician FTE	0	\$72,537	\$72,537	\$72,537
Furniture	0	\$9,722	\$0	\$0
IT Hardware	0	\$3,982	\$3,080	\$3,080
Total Costs - VSP	\$0	\$167,267	\$156,643	\$156,643

Department of Education (DOE)

Contractor Costs	0	0	\$50,000	\$0
Resource Development	0	0	\$100,000	\$0
Online Module Development	0	0	\$150,000	\$0
Hosting/Maintenance Fees	0	0	\$10,000	\$10,000
Total Costs - DOE	\$0	\$0	\$310,000	\$10,000

Department of Corrections (DOC)

Impact on Prison Bed Space Needs	0	\$50,000	\$0	\$0
Total Costs – DOC	\$0	\$50,000	\$0	\$0

Total Costs for VSP, VDOE, and DOC	\$0	\$217,267	\$466,643	\$166,643
Virginia Cannabis Control Authority	\$0	\$4,000,000	\$9,000,000	\$12,000,000
Virginia Retirement System (VRS)	\$0	\$195,000	\$0	\$0

The following narrative details the expenditure estimates in the table above.

Virginia State Police (VSP)

According to VSP, the bill requires fingerprint based criminal history record checks be completed on all individuals that apply to be licensed through the Virginia Cannabis Control Authority to operate as a marijuana establishment. The fingerprints of the licensee are to be forwarded to the Department of State Police, Central Criminal Records Exchange (CCRE) so that criminal history record checks may be processed. The CCRE is to return the results of the criminal history record check to the Virginia Cannabis Control Authority Board for their review.

In the recent Joint Legislative Audit and Review Commission (JLARC) report outlining the key considerations for the legalization of marijuana, it was estimated that approximately 1,550 licenses would be issued for marijuana establishments. Currently, the Non-Criminal Justice (NCJ) section of the CCRE is tasked with processing criminal history record background checks.

It is anticipated that fingerprint submissions would be cards, as opposed to electronic submissions. Within the fingerprint-based criminal record check process, fingerprint technicians are used to establish the identification of the fingerprints in order to match the information to the appropriate criminal history record. Once this match, or no match takes place, a program support technician in the NCJ section processes the criminal history record results and forwards the information to the requesting agency. VSP estimates needing one fingerprint technician and one program support technician to process up to 10,000 fingerprint cards per year. These positions are estimated to cost \$81,026 annually for the fingerprint technician and \$72,537 annually for the program support technician.

Department of Education (DOE)

Enactment clauses of the bill require DOE to implement a plan to ensure that teachers have access to information, resources, and lesson ideas to teach about the harms of marijuana use. It requires DOE to review currently available resources to determine if additional or updated materials are needed and to provide or develop additional materials as needed. According to DOE, the agency would need one-time funding of \$50,000 for additional contract assistance to develop the plan and review all resources. In addition, the agency would need one-time funding of \$100,000 to develop new resources.

The bill also requires the development of a plan for introducing teachers to the information and resources available to assist them in teaching the 2020 Health Standards of Learning as it relates to marijuana use. The plan must include providing professional development webinars as well as ongoing professional development relating to marijuana. In order for these professional development opportunities to be practical, DOE estimates it would need to develop web-based modules that can be accessed by teachers in real-time. One-time development costs for online modules are estimated to be \$150,000. DOE estimates an additional \$10,000 per year in ongoing costs related to hosting and maintenance fees. The estimated total state impact of the bill to DOE would be \$310,000 in FY 2023 and \$10,000 per year beginning in FY 2024.

Criminal Sentencing Impact

According to the Virginia Sentencing Commission while the proposal would eliminate certain criminal penalties related to marijuana from the Code and reduce penalties for other offenses, it would establish a number of new misdemeanors and felonies for engaging in activities related to the cultivation, manufacture, testing and sale of marijuana without the required license or otherwise engaging in prohibited practices related to the production, sale, etc., of marijuana. If enacted, the proposal also specifies that monthly tax returns filed by licensees must be made under oath, which may have felony implications for making a material false statement on the return.

The net effect on the number of convicted individuals and the impact on judicial sentencing patterns cannot be estimated. Therefore, the net impact on the future state-responsible (prison) bed space needs of the Commonwealth cannot be determined. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 56, 2021 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary

appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

The total anticipated fiscal impact as a result of the proposed legislation on VSP, DOE, and DOC is \$0 in FY 2021, \$217,267 in FY 2022, \$466,643 in FY 2023, and \$166,643 in FY 2024.

Virginia Cannabis Control Authority

Establishing the Virginia Cannabis Control Authority as a standalone agency likely will require funding to hire personnel, acquire office space and other operational costs. The bill provides, 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 and to provide for the depreciation on the buildings, plants, and equipment owned, held, or operated by the Board. However, JLARC estimates that the first year cost could be \$3 to \$4 million with second year cost coming in at \$7 to \$9 million. Once fully operational, it is anticipated that ongoing operational costs will be \$9 to \$12 million. These are estimated costs based on other states. It is estimated that the new agency would need funding support for at least the first 2 years of operations before sufficient revenues are generated to cover the cost of operations.

Virginia Retirement System (VRS)

According to the Virginia Retirement System (VRS), the substitute bill impacts three of the agency's plans: 1) Virginia Retirement System (VRS), 2) Virginia Law Officers' Retirement System (VaLORS) and 3) Optional Retirement Plan for Political Appointees (ORPPA). In addition, there may be a need for administrative implementation of Line of Duty Act (LODA) benefits. The need for VRS to allocate resources to incorporate the new Virginia Cannabis Control Authority into its plans will depend on the overall implementation schedule for creating the new Authority and the appointing or hiring of employees. VRS estimates its implementation cost to be approximately \$145,000. This figure does not include the impact to future contribution rates for VRS or VaLORS, the premium rates for LODA, or the impact on the funded status of the plans. Additionally, if implementation for the new Authority impacts the work VRS is doing to implement the new Cardinal system, there may be an additional cost of \$50,000.

Office of the Executive Secretary of the Supreme Court (OES)

According to the Office of the Executive Secretary of the Supreme Court, the bill is not expected to have a material fiscal impact on the court system.

Office of the Attorney General (OAG)

According to the Office of the Attorney General, the bill is not expected to have a material fiscal impact on its agency operations.

Virginia Indigent Defense Commission (VIDC)

Since marijuana has already been decriminalized, VIDC does not expect the bill will have a material fiscal impact on its agency operations.

Virginia Department of Agriculture and Consumer Services (VADACS)

The bill also requires VADACS to adopt regulations related to edible marijuana products. Currently, VADACS handles food safety in the Commonwealth and conducts inspections of

food establishments. At this time, the agency is unable to determine the increase in inspections that may result from this bill. Additional resources may be needed in future years.

Department of Motor Vehicles (DMV)

According to the DMV, the bill is not expected to have a material fiscal impact on its agency operations.

Department of Criminal Justice Services (DCJS)

According to Department of Criminal Justice Services (DCJS), the proposed bill is not expected to have material fiscal impact on agency operations. Although it is likely that local probation agencies will see some cost reductions from already-passed decriminalization legislation, no further cost reductions are expected from any future legalization efforts. Additionally, DCJS staff indicate that projected savings from decriminalization may not be realized because of other recent legislative changes that could increase local agencies' workloads.

Drug Offender Assessment Fund

The marijuana bill repeals two current laws related to marijuana possession: §18.2-248.1, which presumes that the possession of no more than one ounce is for personal use and §18.2-250.1 which assesses a \$25 civil penalty for unlawful possession of marijuana, with penalties deposited into the Drug Offender Assessment Fund. The Fund supports community-based probation and local pretrial services agencies and the Office of the Executive Secretary of the Supreme Court of Virginia for the operation of drug treatment court programs. The bill also proposes § 4.1-1100, which establishes that, except as otherwise provided in the new 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 of Directors of the Virginia Cannabis Control Authority. Any person who possesses on his person or in any public place marijuana or marijuana products in excess of the amounts set forth by the Board is subject to a civil penalty of no more than \$25. A violation of this section is a civil offense, and any civil penalties collected are to be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. This legislation may impact the amount of revenue deposited into the Drug Offender Assessment and Treatment Fund; however, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the impact of this provision cannot be determined.

Other Agencies

The costs associated with developing and implementing a health, safety, and safe driving campaign (Enactment #11) cannot be determined at this time. These ongoing costs will be dependent on the development of the implementation of these initiatives by the respective secretariats.

9. Specific Agency or Political Subdivisions Affected: Department of Taxation, Department of Criminal Justice Services, Virginia State Police, Department of Forensic Science, Virginia Criminal Sentencing Commission, Virginia Indigent Defense Commission, Office of the Attorney General, Courts, Department of Education, Department of Motor Vehicles, Virginia

Department of Agriculture and Consumer Services, Virginia Retirement System, localities, and local law enforcement agencies.

10. Technical Amendment Necessary: No

11. Other Comments: The VSP impact is based on a delayed implementation date of July 1, 2025 for the changes required under § 19.2-389.3. The Conference report provides \$13.1 million from the general fund the second year for one-time and ongoing costs to update and replace the information systems to implement automatic expungement process for certain offenses related to HB2113 and SB1339. The same system would be used to implement the provisions of HB2312.

Budget Actions – 2021 General Assembly Special Session

Enhance economic growth and food safety in the Commonwealth

Provides support for three food safety inspectors and associated operating costs to enhance the food safety inspection program.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	276,636	3.0

Fulfill Virginia's phase III watershed implementation plan

Provides two positions and associated costs to support implementation of Agricultural Stewardship best management practices, as well as audit and verification of contractor-applicators. This activity is an approved strategy included in the Phase III Watershed Improvement Plan.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	245,698	2.0

Establish the Virginia Agriculture Food Assistance Program

Creates the Virginia Agriculture Food Assistance Program, which will provide funding to cover farmers' and food producers' costs associated with harvesting, processing, packaging, and transporting agricultural products in order to donate those items to charitable food assistance organizations. Legislation passed during the 2021 legislative session establishes the grant program.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	600,000	0.0

Additional funding for Farmland Preservation Fund

Provides an additional \$750,000 the second year from the general fund for the Virginia Farmland Preservation Fund.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	750,000	0.0

Additional funding for the Virginia Food Access Investment Program

Increases the first year general fund appropriation for the Virginia Food Access Investment Program.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
2,000,000	0.0	0	0.0

Support Dairy Producer Margin Coverage Premium Assistance

Provides funding for the Dairy Producer Margin Coverage Premium Assistance Program, consistent with the provisions of House Bill 1750 and Senate Bill 1193 of the Special Session I of the General Assembly.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	1,000,000	0.0

Implement International Trade Plan

Provides funding and one position to expand services for Virginia businesses under the provisions of the Commonwealth's International Trade Plan.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	250,000	1.0

Support Holiday Lake 4-H

Support renovations of the Holiday Lake 4-H Center. The center is an evacuation location for several public school systems in Central Virginia.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
250,000	0.0	0	0.0

Regulation of Charitable Gaming

Provides funding consistent with the provisions of Senate Bill 1127 of the 2021 General Assembly and directs the Office of the State Inspector General to investigate the operations of the Charitable Gaming Board and recommend any changes needed to prevent conflicts of interest.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	407,600	5.0

Beehive Grant Program

Provides additional funding in the second year from the general fund for the Beehive Grant Fund. The Fund provides beehive equipment directly to eligible beekeepers.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	75,000	0.0

Reduce deposit to the Wine Promotion Fund

Decreases the deposit required to be made to the Wine Promotion Fund based on updated wine and cider liter tax revenue collections attributable to Virginia wineries and cideries.

FY 2021 Dollars	FY 2021 FTE	FY 2022 Dollars	FY 2022 FTE
0	0.0	(769,837)	0.0

		FY 2021		FY 2022	
		Generally Assembly Action		General Assembly Actions	
Division		Dollars	FTE	Dollars	FTE
Chapter 1289 (2020 Appropriation Act)		\$ 80,619,801	558.00	\$ 78,635,573	558.00
Increases:					
Enhance economic growth and food safety in the Commonwealth	AFIS	\$ -	-	\$ 276,636	3.00
Fulfill Virginia's phase III watershed implementation plan	COM	\$ -	-	\$ 245,698	2.00
Establish the Virginia Agriculture Food Assistance Program	MRKT	\$ -	-	\$ 600,000	-
Farmland Preservation Fund	MRKT	\$ -	-	\$ 750,000	-
Virginia Food Access Investment Program	MRKT	\$ 2,000,000	-	\$ -	-
Dairy Producer Margin Coverage Premium Assistance	COM	\$ -	-	\$ 1,000,000	-
International Trade Plan	MRKT	\$ -	-	\$ 250,000	1.00
Holiday Lake 4-H	MRKT	\$ 250,000	-	\$ -	-
Regulation of Charitable Gaming	CP	\$ -	-	\$ 407,600	5.00
Restore International Marketing Capacity	MRKT	\$ -	-	\$ -	-
Beehive Grant Program	CP	\$ -	-	\$ 75,000	-
Total Increases:		\$ 2,250,000	-	\$ 3,604,934	11.00
Decreases:					
Reduce deposit to the Wine Promotion Fund	MRKT	\$ -	-	\$ (769,837)	-
Move reductions to agency budget	ALL	\$ (757,222)	(5.00)	\$ (441,722)	(5.00)
Total Decreases		\$ (757,222)	(5.00)	\$ (1,211,559)	(5.00)
Net change with new legislation		\$ 1,492,778	(5.00)	\$ 2,393,375	6.00
2021 Budget Bill		\$ 82,112,579	553.00	\$ 81,028,948	564.00
Percentage change over Chapter 1289		1.85%	-0.90%	3.04%	1.08%
2021 Budget Bill - General Fund		\$ 43,871,662	344.00	\$ 42,788,031	344.00
Percentage change over Chapter 1289		17.83%	4.24%	14.92%	4.24%

Project 6646 - Fast-Track

Department Of Agriculture And Consumer Services

Update references to Title 3.1

2VAC5-560-50. Misbranding.

Knowingly filing incorrect or unverifiable data with the commissioner, or placing an expiration date upon a shipping carton, container or any consumer package which is inconsistent with the data filed with the commissioner, shall be considered to be misbranding under § ~~3.1-396(a)~~ 3.2-5123(a)(1) of the Code of Virginia. However, it shall not be considered misbranded if the expiration date shown is an earlier date than the filed data could warrant.

2VAC5-560-70. Sale of a product unfit for food.

Any manufacturer, distributor, dealer, or other person who offers for sale or sells infant formula without an expiration date, or who offers for sale or sells infant formula after the expiration date shown, shall be deemed to be offering for sale a product unfit for food ~~within the meaning of § 3.1-395(a)(3)~~ and an adulterated food as described in § 3.2-5122(3) of the Code of Virginia.

FORMS (2VAC5-560)

~~Inspection Report, Form VDACS-06017.~~

Project 6710 - Exempt Final

Department Of Agriculture And Consumer Services

Expand quarantine to Clarke and Warren Counties

2VAC5-336-50. Regulated areas.

The following areas in Virginia are quarantined for Spotted Lanternfly:

1. The entire ~~County of~~ following counties:

a. Clarke;

b. Frederick; and

c. Warren.

2. The entire City of Winchester.

Pursuant to the authority established in Section 3.2-703 of the Code of Virginia, I hereby extend the regulated area of the quarantine to restrict the movement of certain articles of capable of transporting Spotted Lanternfly, *Lycorma delicatula*.

Jewel H. Bronaugh, Ph.D.
Commissioner of Agriculture and Consumer Services

Date

DRAFT MINUTES

Friday, February 5, 2021

The meeting of the Board of Agriculture and Consumer Services (Board) Record Subcommittee (Subcommittee) convened at approximately 11:00 a.m. on Friday, February 5, 2021. The meeting was held by electronic communications means due to the state of emergency issued by Governor Northam as a result of the novel coronavirus (COVID-19). The meeting was held using Cisco Webex Events. President Barlow called the meeting to order.

ROLL CALL

The Board Secretary called the roll:

PRESENT

Shelley Barlow
Kay Johnson Smith
James S. Huffard, III
Richard Sellers

CONGRESSIONAL DISTRICT

3rd
8th
9th
11th

ABSENT

None

STAFF PRESENT

Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services
Katherine Coates, Virginia Department of Agriculture and Consumer Services (VDACS)

DISCUSSION OF RELEASE OF PUBLIC RECORDS

Ms. Barlow asked that Subcommittee members share their thoughts based on their individual meetings with Interflex.

[A full recording of comments and discussion can be found here](#)

Password: ZyFYvpJ6

SUBCOMMITTEE MEMBER REPORTS

Shelly Butler Barlow

Ms. Barlow stated that her main take away from her one-on-one meeting with Interflex was that Interflex's goal is to make food purchasing cost efficient and more effective for schools. She felt good about supporting that goal.

Richard Sellers

Mr. Sellers expressed some concern with giving financial and sales data to companies. During his meeting, he was struck by the large number of states that cooperate with Interflex to get prices from USDA. He didn't see a reason the Board shouldn't allow the release of the information if other states are allowing such release. He noted Interflex is working with Fairfax County, but he is unsure if Interflex received data from the county or if Interflex is providing data to the county.

Kay Johnson Smith

Ms. Smith stated that, after her meeting with Interflex, she saw how the service it provides could be valuable to schools. There were some concerns during her meeting about the burden on VDACS staff to respond to the requests. They discussed potentially having the information provided quarterly. There was also concern of setting a precedent that would allow similar information to be released to anyone who asked the Board for it.

James Huffard

Mr. Huffard agreed with the previous comments. Interflex offers a valuable service that is advantageous to school districts. He had concerns about releasing the pricing information, as it might be proprietary.

QUESTIONS AND DISCUSSION

President Barlow opened up the meeting for questions.

Mr. Sellers inquired from staff if there have been similar requests and what is the typical process for these requests. Mr. Kevin Schmidt, Director of Policy, Planning, and Research, provided an overview of how VDACS responds to FOIA requests.

Mr. Sellers inquired about what the Subcommittee recommendation would look like. Mr. Schmidt replied there would be an item on the March Board agenda based on the Subcommittee's decision from today.

Mr. Sellers inquired if there had been any comments from the meat and food industry in regards to this records request. Mr. Charles Green, Deputy Commissioner, responded that he did not hear any concerns with data being discussed relevant to this request. There was some concern of other groups seeing the decision and using the Board to get information that was not previously provided by the agency. Namely, the concern was related to pesticide investigations.

Mr. Justin Bell, Assistant Attorney General, Office of the Attorney General and Counsel to the Board, gave the Board a brief overview of the Virginia Freedom of Information Act, the agency's role, and the Board's authority. He concluded his overview by noting that the Subcommittee does not set a precedent with its decision today. The Subcommittee or Board may make a different decision in a similar case in the future.

Ms. Barlow asked what would happen if the Board voted to release the information but decided later it is not working. She wondered whether the Board has the ability to deny a future request. Mr. Bell responded that this is a one-time request and if the requester comes back, the Board can make a different decision.

Ms. Barlow inquired about costs from a staff point of view. Mr. Schmidt responded that if there is no redaction required, a request like this would not have a charge.

Ms. Johnson Smith stated that the Interflex request sounds like an ongoing request. She wondered whether the Subcommittee will be making a decision to release the information continuously or will it have to go back through this if Interflex wants to request it again. Mr. Schmidt responded that it would ultimately be up to the Board based on the direction given from today's Subcommittee meeting.

Mr. Huffard stated that he thinks the Board can give the information once or twice a year. He noted that this information is likely openly available if someone was to call each school district. He shared some concern about releasing price information.

Ms. Barlow called on Lamont White, Processing Specialist, Office of Food Distribution, to comment on how responding to this request will impact his office.

Mr. White stated that, if they did it on a quarterly basis, it would be about 180 documents released each quarter. His main concern is that manufacturers have to buy the information from Interflex and smaller manufacturers cannot afford this service. While it is free to schools, Interflex did not give him the impression it would remain free for schools. And, while the Interflex information is free to schools, it is being sold to manufacturers. His concern is that Interflex is a for-profit organization making a profit from the information.

The Board discussed Mr. White's concerns and ways the final released documents could be redacted.

After discussion, Mr. Sellers moved that the Subcommittee, having reviewed information provided by Interflex in two separate phone calls and in holding a public Subcommittee meeting, recommend to the Board that the Board deny Interflex's request for this data. Mr. Huffard seconded the motion. The Subcommittee voted unanimously to approve the motion.

APPROVE: Barlow, K. Johnson Smith, Huffard, Sellers

OPPOSE: None

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

The meeting adjourned at 12:00 p.m.



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

**ELECTRONIC MEETINGS
PUBLIC COMMENT FORM**

WE NEED YOUR HELP--Please give us your feedback regarding how meetings using electronic communications technology compare to traditional meetings where everyone is present in the same room at the same time.

1. **Name of the public body holding the meeting:** _____

2. **Date of the meeting:** _____

3. **What are your overall thoughts or comments about this meeting?** _____

4. **Where did you attend this meeting -- main meeting location OR from a remote location? (circle one)**

5. **Technology used for the meeting (audio only or audio/visual, devices and/or software used--please be as specific as possible--for example, speakerphone, iPad, Skype, WebEx, Telepresence, etc.):**

6. **Were you able to hear everyone who spoke at the meeting (members of the body and members of the public)?**

Poor				Excellent
1	2	3	4	5

COMMENT _____

7. **How easy was it for you to obtain agenda materials for this meeting?**

Easy				Difficult
1	2	3	4	5

COMMENT _____

8. **Could you hear/understand what the speakers said or did static, interruption, or any other technological problems interfere?**

Easy				Difficult
1	2	3	4	5

COMMENT _____

9. **If the meeting used audio/visual technology, were you able to see all of the people who spoke?**

Poorly				Clearly
1	2	3	4	5

COMMENT _____

10. If there were any presentations (PowerPoint, etc.), were you able to hear and see them?

Poorly
1 2 3 4 5
Clearly

COMMENT _____

11. Were the members as attentive and did they participate as much as you would have expected?

Less
1 2 3 4 5
More

COMMENT _____

12. Were there differences you noticed in how the members interacted?

With the other members present:

Very Different
1 2 3 4 5
No Difference

With members participating from other locations:

Very Different
1 2 3 4 5
No Difference

With the public:

Very Different
1 2 3 4 5
No Difference

COMMENT _____

13. Did you feel the technology was a help or a hindrance?

Hindered
1 2 3 4 5
Helped

COMMENT _____

14. How would you rate the overall quality of this meeting?

Poor
1 2 3 4 5
Excellent

COMMENT _____

THANK YOU. Please send your completed form by mail, facsimile or electronic mail to the FOIA Council using the following contact information:

Virginia Freedom of Information Advisory Council
General Assembly Building, Second Floor
201 North 9th Street, Richmond, Virginia 23219
foiacouncil@dls.virginia.gov/Fax: 804-371-8705/Tele: 866-448-4100