

**BOARD OF AGRICULTURE AND CONSUMER SERVICES**  
**Suffolk Center for Cultural Arts**  
**110 W. Finney Avenue**  
**Suffolk, Virginia 23434**

**Tuesday, July 19, 2022**

**1 P.M.**

1. Call to order
2. Roll call
3. Welcome from City of Suffolk
4. Approval of draft Board meeting minutes from May 19, 2022
5. Board member reports
6. Commissioner's report to Board – Joseph Guthrie, Commissioner of Agriculture and Consumer Services
7. Briefing on the final 2022 Appropriation Act – Kendra Shifflett, Director, Administration and Finance; Kevin Schmidt, Director, Office of Policy, Planning, and Research
8. Final exempt action to adopt 2 VAC 5-595, Regulations Governing the Manufacturing and Sale of Products that Contain Industrial Hemp Extracts Intended for Human Consumption – David McGreevy, Deputy Director, Division of Animal and Food Industry Services
9. Expansion of the regulated area for 2 VAC 5-336, Regulations for Enforcement of the Virginia Tree and Crop Pests Law - Spotted Lanternfly Quarantine – David Gianino, Program Manager, Office of Plant Industry Services
10. New business
11. Future Board meetings
12. Public comment period
13. Adjourn

**DRAFT MINUTES**

Board of Agriculture and Consumer Services  
Patrick Henry Building  
East Reading Room  
1111 E. Broad Street  
Richmond, Virginia  
Thursday, May 19, 2022

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:07 a.m. on Thursday, May 19, 2022, at the Patrick Henry Building in Richmond. President Barlow called the meeting to order.

**ROLL CALL**

The Board Secretary called the roll:

**PRESENT**

O. Bryan Taliaferro, Jr.  
Clifton A. Slade  
Shelley Barlow  
Margaret Ann Smith  
Jacquelin Easter  
James S. Huffard, III  
Richard Sellers  
Neil Houff  
Charles Church  
Dr. Wondie Mersie

**CONGRESSIONAL DISTRICT**

1<sup>st</sup>  
3<sup>rd</sup>  
4<sup>th</sup>  
6<sup>th</sup>  
7<sup>th</sup>  
9<sup>th</sup>  
11<sup>th</sup>  
Pesticides – Commercial Agricultural  
Pesticides – Commercial Structural  
Representing Dr. Makola Abdullah, President,  
Virginia State University

**ABSENT**

Donald Horsley  
Cecil Shell  
Vacant  
Tyler Wegmeyer  
Lonnie Johnson

2<sup>nd</sup>  
5<sup>th</sup>  
8<sup>th</sup>  
10<sup>th</sup>  
Representing Dr. Timothy D. Sands, President,  
Virginia Tech

**STAFF PRESENT**

Joseph Guthrie, Commissioner, Virginia Department of Agriculture and Consumer Services  
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services  
Katherine Coates, Administrative Assistant, Virginia Department of Agriculture and Consumer Services

**APPROVAL OF MINUTES**

Ms. Sellers moved that the draft minutes of the meeting on March 24, 2022, be approved as distributed. Mr. Huffard seconded the motion. The Board voted unanimously to approve the motion.

**ELECTION OF OFFICERS**

Commissioner Guthrie opened the floor for nominations for Board President. Mr. Huffard nominated Ms. Barlow for President. There being no other nominations, Commissioner Guthrie

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closed the nomination and called for a vote on the nominee. The Board elected Ms. Barlow as President by a unanimous vote.

President Barlow opened the floor for nominations for Vice President. Mr. Church nominated Mr. Houff for Vice President. There being no other nominations, President Barlow closed the nomination and called for a vote on the nominee. The Board elected Mr. Houff as Vice President by a unanimous vote.

President Barlow then called for nominations for Secretary. Mr. Sellers nominated Mr. Schmidt for Secretary. There being no other nominations, President Barlow closed the nomination and called for a vote on the nominee. The Board elected Mr. Schmidt as Board Secretary by a unanimous vote.

All three officer positions become effective July 1, 2022, and run through June 30, 2023.

### **REPORT FROM BOARD MEMBERS**

#### **Charles Church**

Mr. Church reported on recent and upcoming Virginia Pest Management Association (VPMA) trainings. The VPMA master tech series was held in person in April. The Jeffrey M. Johnson Memorial ACE Prep Course will be held in June in person in Richmond. VPMA conducted WDI Recertification Inspector training virtually in March and will hold another session in June. He concluded by reporting that VPMA also hosted General Recertification webinars in April and May, during which 150 technicians were trained, with another General Recertification webinar scheduled for June.

#### **Neil Houff**

Mr. Houff reported that supply chain challenges continue to impact the pesticide and fertilizer industries. He discussed challenges in the crop protection industry regarding the individual permits required for the application of certain restricted use pesticides for permitted commercial applicators. He stated that he has asked the state to develop a program that would allow a commercial applicator permit to cover all restricted pesticide products to address these challenges. He later commented on the stress to the transportation industry due to backordered parts and regulations prohibiting modifications that would allow repairs with available parts.

#### **O. Bryan Taliaferro**

Mr. Taliaferro echoed Mr. Houff's concerns about supply chain issues. He reported that grain prices are extremely high and input costs have been relatively low based on last year's prices. As a result, there is potential for good profits for producers as long as the weather remains good through the rest of the year. He discussed the impacts of the war in Ukraine on global wheat markets and world hunger. He stated that the war and its effects would have major impacts on the U.S. agriculture industry and in Virginia. He concluded with concerns about soil moisture in his district and stated that they will need timely showers through the growing season.

#### **Clifton Slade**

Mr. Slade began his report by thanking the Virginia Department for the Blind and Vision Impaired for their assistance. He then reported that his sweet potato crop is coming in well and shipping is brisk. However, the deer have been relentless and can cause significant crop damage. He stated that the Virginia Department of Wildlife Resources has been helpful with

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obtaining kill permits for the deer. He concluded his report by discussing his concerns as a small farmer about the rules and regulations regarding the destruction of hemp.

### **Margaret Ann Smith**

Ms. Smith reported that it has been cold and dry in her district, which has resulted in grass being late for turnouts. She reported on the cattle markets, which have been very strong. For the last few weeks, Virginia has led the U.S. in pricing for 450-pound steers. She explained that this is perplexing because cattle prices typically increase as you move West. She stated that numbers are strong in sale barns. There are concerns going forward about significant increases in grain prices. She reported on the impacts of the drought in the West to the cattle industry. Increases in interest rates and trucking and fuel prices have also been a challenge. She stated that her freight bills have increased from \$3.00 a mile to over \$4.75+ a mile, which is a \$2,100 increase per load. She concluded by commending VDACS cattle graders for their work.

### **Jacquelin Easter**

Ms. Easter began her report by offering condolences to the family of L. Wayne Kirby, her predecessor on the Board, who passed away in April. She reported on the challenges with the pricing and availability of fuel in her district. It has also been a challenge to order parts for work and personal vehicles. She reported that corn and soybeans have been planted in her district. The lack of moisture has impacted crops and pastures, and many producers in her district have weaned cows early as a result.

### **James Huffard**

Mr. Huffard reported that producers in his district have finished harvesting rye and fertilizing fields and are now planting corn. Dairy prices have been at record highs, but he shared his concerns that the last time prices went this high, they eventually fell below the cost of production. Milk prices have increased approximately \$1.60 a gallon. Sales have been good at his operation, Duchess Dairy, but input prices have also been high. Pricing has been complicated due to the price increases, and they have been working with retailers on the mark up. He reported that Duchess Dairy has also started distributing cheese curds and it is going well.

### **Richard Sellers**

Mr. Sellers reported that the highlight in his district since the Board last met was a visit from Commissioner Guthrie to his church garden. He stated that local Virginia Cooperative Extension agents were also in attendance, and he thanked the Commissioner for the visit. He concluded with a report on local precipitation and stated that they look forward to a good growing season.

### **M. Wondi Mersie**

Dr. Mersie reported that Virginia State University (VSU) held its 2022 Spring Commencement Ceremony on May 14, during which, 527 graduates received their degrees. VSU students attended the Association of 1890 Research Directors Symposium in Atlanta, Georgia. He stated that the VSU College of Agriculture is offering a Sustainable Urban Agriculture Certificate program. This program helps meet the growing demand for trained urban agriculture professionals. He concluded with an announcement that the 2022 VSU Agricultural Field Day will be held on September 1, 2022, at Randolph Farms.

### **Lonnie Johnson**

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Mr. Johnson was unable to attend the meeting, but he provided a report for Secretary Schmidt to read. His report stated that Virginia Tech (VT) held 2022 commencement ceremonies on May 7-15 in Blacksburg, Roanoke, and the Washington, D.C., area. More than 6,300 graduates were honored. The College of Agriculture and Life Sciences (CALs) conferred nearly 40 associate's degrees in the Agriculture Technology program and over 650 bachelor's degrees. Dr. Arash Rashed has accepted the Director of Southern Piedmont Agriculture Research and Extension Center and Entomology Specialist position. At VT, searches continue for an Associate Dean for the College of Natural Resources and Environment, the Director of CALs Information Technology, and the Associate Dean and Director of Virginia Cooperative Extension.

### **Shelly Butler Barlow**

Ms. Barlow began her report by providing comments and feedback on the reports from other Board members. She stated that cotton prices have been extremely high, but the high associated input costs result in the similar profit margins. She reported that in her district, corn has been planted and peanuts are in the ground. Cotton planting has started on her farm. Weather conditions have been good. She stated that she looks forward to an excellent farmers' market season. She concluded with an update on the interviews for the seventh VALOR cohort.

### **COMMISSIONER'S REPORT**

Commissioner Joseph Guthrie delivered his report to the Board. During the presentation of this report, he briefed the Board on personnel changes, recent events, and other matters relating to VDACS. A copy of the written report on which his presentation was based was included in the Board meeting agenda and materials.

### **FINAL STAGE - 2 VAC 5-405 (REGULATIONS FOR THE APPLICATION OF FERTILIZER TO NONAGRICULTURAL LANDS)**

President Barlow called on David Gianino, Program Manager, Office of Plant Industry Services. Mr. Gianino briefed the Board on the final stage for 2 VAC 5-405. Following Mr. Gianino's presentation and questions from the Board, Mr. Sellers moved that the Board adopt 2 VAC 5-405, Regulations for the Application of Fertilizer to Nonagricultural Lands, as presented by staff, and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board.

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

### **VIRGINIA GROWN PROGRAM REBRANDING AND NEW LOGO AND REFRESH OF THE VIRGINIA'S FINEST LOGO**

President Barlow called on Rob Davenport, Director, Division of Marketing. Mr. Davenport presented the Board with information on the refresh of the Virginia's Finest logo and the rebranding and new logo of the Virginia Grown program. Following his presentation, Mr. Davenport responded to Board member question and comments.

### **NEW BUSINESS**

There was no new business brought before the Board.

### **FUTURE BOARD MEETINGS**

President Barlow announced that the summer Board meeting and tour will be held July 19-20, 2022, in Suffolk. The December meeting will be held on December 9 in Richmond.

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**PUBLIC COMMENT PERIOD**

Stefanie Taillon, Senior Assistant Director of Governmental Relation, Virginia Farm Bureau Federation, addressed the Board to provide information on a series of listening sessions the Virginia Farm Bureau Federation, Virginia Agribusiness Council, and Virginia Cattlemen's Association are hosting related to meat processing in Virginia as part of the development of VDACS's strategic plan to help increase meat processing capacity within Virginia. She stated that these sessions will give producers an opportunity to weigh in and share their thoughts on the opportunities and challenges associated with the industry. The sessions will be held; June 15 in Buckingham, June 20 in Culpeper, June 21 in Harrisonburg, and June 22 in Wytheville. She concluded by inviting Board members to attend.

**ADJOURNMENT**

There being no further business, the Board adjourned at approximately 11:24 a.m.

Respectfully submitted,

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Shelley Barlow  
Board President

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Kevin Schmidt  
Board Secretary

COMMISSIONER'S REPORT TO  
BOARD OF AGRICULTURE AND CONSUMER SERVICES  
July 19, 2022

GOVERNOR'S PRIORITIES

Since May, there have been two new Governor's Agriculture and Forestry Industry Development (AFID) Fund Facility Grants announced totaling \$350,000. On May 25, the City of Suffolk was awarded \$250,000 for the Birdsong Peanuts expansion. The project represents \$25,095,200 in new capital investment and commitments for the purchase of \$544,236 of Virginia-grown agriculture and forestry products. On June 14, Governor Youngkin announced a \$100,000 award to Rockingham County for the expansion of the Rockingham Cooperative feed mill in Dayton. The project represents \$16,700,587 in new capital investment, eight new full-time positions, and commitments for \$11,645,101 of Virginia-grown agriculture and forestry products. Since its inception, 117 Governor's AFID Fund Facility Grants have been successfully awarded to 66 localities across Virginia totaling \$10,869,900. These projects have encouraged the creation of 3,574 new full-time jobs and full-time equivalent positions, \$1,135,527,197 in new capital investment, and \$1,308,228,637 in new Virginia-grown purchases. Additionally, 51 AFID Planning Grants have been awarded totaling \$1,043,232, positively impacting 63 unique localities for local agricultural and economic development enhancements ranging from local food sourcing to poultry industry support to viticulture education.

In June, the second round of the Governor's AFID Fund Infrastructure Grant recipients were announced. In total, 11 applicant localities received \$214,000 in grant funding: (i) \$9,000 to Bedford County for a commercial kitchen expansion; (ii) \$7,500 to Fauquier County for farmers' market improvements; (iii) \$10,000 to Franklin County for grain milling upgrades; (iv) \$20,000 to Grayson County for the purchase of a sheep wool baler; (v) \$22,500 to Nelson County to upgrade an historic grain mill; (vi) \$25,000 to Northampton County to invest in an oyster processing boat; (vii) \$25,000 to Orange County for meat processing upgrades; (viii) \$20,000 to the City of Richmond to purchase equipment for a mobile market; (ix) \$25,000 to Scott County for the construction of a new farmers market; (x) \$25,000 to Shenandoah County for the installation of oil tanks at Route 11 Potato Chips; and (xi) \$25,000 to Westmoreland County to support a craft beverage facility. The next grant round will open on October 1, 2022, and close on November 15, 2022, with grant awards announced in December 2022. Since the expansion of the Governor's AFID Fund in 2021, 19 AFID Infrastructure Grants have been awarded totaling \$373,887, providing critical support to 18 unique localities for local agriculture infrastructure capital projects, including farmers' market improvements, the expansion of meat processing facilities, and community cannery upgrades.

Since May, the Virginia Farmland Preservation Fund (Fund) has provided matching funding for the purchase of two easements, permanently protecting a 112-acre farm in Fauquier County and a 123-acre farm in Clarke County. The Fauquier County property is used for orchard grass production, and 88 percent of the soils are prime or soils of statewide importance. The Clarke County property is currently used for pasture and hay production, and its easement protects approximately an acre of wetlands. Between the two projects, five development rights were retired. Since the program's inception in 2007, a total of \$12.7 million in state matching funds from the Fund have been used in part to permanently protect 14,723 acres (111 easements) in partnership with 16 local Purchase of Development Rights programs.

	<b>As of June 30, 2022</b>	<b>On May 31, 2022</b>	<b>On July 31, 2021</b>
Industrial Hemp Grower Registrations	223	195	876
Industrial Hemp Processor Registrations	216	195	290
Industrial Hemp Dealer Registrations	75	74	135
Trained Sampling Agents (crop samples)	26	25	N/A
Approved Testing Laboratories (crop samples)	5	5	N/A

## AGENCY OPERATIONS

### *Commissioner's Office*

In May, Commissioner Guthrie participated in the meeting of the Southern United States Trade Association (SUSTA) Board in New Orleans, Louisiana. Topics of discussion included updates on marketing programs, global events, and SUSTA's CostShare program. The CostShare program allows for 50 percent reimbursement of eligible international marketing expenses, such as advertising in a foreign country or sampling products in a foreign retailer. SUSTA is a non-profit organization that facilitates trade between small to medium-sized southern U.S. companies and overseas importers. Virginia currently serves as the Secretary/Treasurer for the organization.

In May, Secretary of Agriculture and Forestry Lohr, Chief Deputy Secretary of Agriculture and Forestry Slaybaugh, Commissioner Guthrie, Deputy Commissioner Green, and Division of Animal and Food Industry Services leadership met with Dr. Bruce Akey and Dr. David Zeman. VDACS hired Dr. Akey and Dr. Zeman as consultants to evaluate VDACS's laboratory system. The consultants provided an overview of major findings and recommendations based on their evaluation. Each recommendation included further discussion with upper management. The goal of this evaluation was to determine what is needed for VDACS's laboratory system to be "best in class" and to make improvements to outdated protocols.

In May, Deputy Commissioner Green and Office of Plant Industry Services (OPIS) staff met with U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) to discuss the establishment of a new black vulture permit system to assist Virginia's livestock producers who are experiencing losses due to black vulture depredation. Black vultures are migratory birds that are protected under the Migratory Bird Treaty Act. Producers are prohibited from killing or destroying black vultures without a U.S. Fish and Wildlife Services (USFWS) Migratory Bird Depredation permit (Take Permit). The new permit system will expedite the process of issuing Take Permits to livestock producers. VDACS will apply for a federal Depredation Permit from USFWS and work cooperatively with USDA-APHIS-WS to issue sub-permits to farmers. Issuance of the sub-permit will be contingent on the farmer first implementing mitigation procedures to minimize the impact of black vultures. Farmers who receive a sub-permit will be allowed to remove up to five black vultures. It is anticipated that the new permit system will be in place by this fall.

In May, Virginia's Finest companies were featured at the 2022 bi-annual National Logging Expo VIP Reception at the Richmond Raceway Complex. The VIP Reception featured oysters, distilled spirits,



peanuts, sweet potato biscuits, and pimento cheese from Virginia's Finest specialty food and beverage companies. Office of Domestic Marketing and Promotions (ODMP) staff worked with staff from the Virginia Forest Products Association to recruit Virginia's Finest companies to participate. Guests in attendance at this event included Governor Youngkin, Secretary Lohr, members of the General Assembly, and National Logging Company executives as well as other distinguished logging industry guests from all over the country. The National Logging Expo featured over 200 exhibitors from all over the country and included 6,000 attendees from all over the world. Attendees of the Expo were able to participate in hands-on demonstrations of machinery and products, watch live demos, and participate in educational sessions over the two-day Expo. The Expo is the largest of its kind on the entire east coast.

In June, Secretary Lohr and Commissioner Guthrie hosted dairy leaders for the first Virginia Dairy Industry Summit to discuss the opportunities and challenges facing the industry. The summit included the presentation by Secretary Lohr and Commissioner Guthrie of the Dairy Month Proclamation on behalf of Governor Youngkin. VDACS staff also participated in the summit, and Office of Agriculture and Forestry Development (OAFD) staff offered to assist with a potential Governor's AFID Fund Planning Grant-funded study to explore opportunities to recruit new dairy farms to southern Virginia, to partner with the Virginia Economic Development Partnership (VEDP) to reinvigorate VEDP's dairy processing recruitment efforts, and to organize a dairy industry focused meeting of the Virginia Ag Development Officers group next June.

In June, First Lady Youngkin, Secretary Lohr, Deputy Secretary Green, Commissioner Guthrie, and VDACS staff were joined by members of the Virginia Dairy Princess Program in celebrating Virginia's dairy industry. The Dairy Princesses lead the group in a "milk toast" honoring dairy farmers across the Commonwealth. The VDACS Office of Communications coordinated the visit and photographed the event for social media. The State Veterinarian and Office of Dairy and Foods (ODF) staff met with the program participants to discuss how the Division of Animal and Food Industry Services regulates and promotes Virginia's dairy industry.

In June, Commissioner Guthrie and the Director of Administrative and Financial Services attended the 2022 Southern Association of State Departments of Agriculture (SASDA) Annual Conference in Davis, West Virginia. During the SASDA business meeting, Commissioner Guthrie was elected to serve as Vice President for the organization for a one-year term beginning July 2022. Conference speakers and tours focused on timber processing, energy production, and agricultural research and emphasized West Virginia's role in Chesapeake Bay restoration through management of the Potomac Headwaters region. Virginia will host the SASDA Annual Conference in 2024.

Governor Youngkin proclaimed June 12–18 as Virginia Agriculture Week to recognize and celebrate the many contributions of the Commonwealth's agricultural community. Throughout the week, Governor Youngkin, Secretary Lohr, Chief Deputy Secretary Slaybaugh, Deputy Secretary Green, Commissioner Guthrie, and VDACS staff celebrated Virginia Agriculture Week with a series of tours, events, and announcements throughout the Commonwealth to highlight the economic impact of the agricultural industry and the role farmers and agribusinesses play in providing safe, abundant, and affordable foods and products. VDACS staff coordinated and participated in many of these events, and VDACS Office of Communications staff documented the week's activities on the agency's social media channels. Commissioner Guthrie crossed the entire state during the week, starting in Scott County and concluding on the Eastern Shore a week later. Tour sites during the week included:

- Upperville Colt and Horse Show
- Livestock Exporters Association grand opening
- Murphy & Rude Malting Company
- LEAP Roanoke Va. Food Access Investment Fund
- George Washington Carver Center Agricultural Research Center
- T&E Meats
- Rockingham Cooperative AFID announcement
- Governor's tour of the Harrisonburg Regional Animal Health Laboratory
- Keswick Vineyards for a winery trail ribbon cutting
- Hidden Pines AFID announcement
- Virginia Green Chesterfield office
- Landscape Supply
- Arcadia Center for Sustainable Food and Agriculture (VFAIF awardee)
- Meeting with the Japanese Embassy
- Crabbing with Virginia Waterman JC Hudgins
- Virginia Racing Commission
- Woodson's Mill
- Eastern Regional Junior Angus Show
- Cherrystone Aqua Farms

In recognition of Virginia Agriculture Week, the VDACS Communications Office coordinated a photo contest for the public and VDACS employees. The goal of the contest is to submit the best original image that best depicts Virginia agriculture in the categories of aquaculture, celebrate local, landscape, livestock, and produce. Category winners were announced each day during Virginia Agricultural Week on social media. Congratulations to the following winners:

- Aquaculture category - Matthew Wagner
- Celebrate Local - Valerie Dove
- Produce - Carmen Crowder
- Landscape - Allison Sowers
- Livestock - Whitney Terry

In June, Commissioner Guthrie and VDACS staff participated in the board meeting and cooperatoor tour of the Virginia Foundation for Agriculture, Innovation and Rural Sustainability (VA FAIRS). VA FAIRS is a non-profit organization that assists producers and rural communities with agriculture-focused development. The organization is operated by staff of the Virginia Farm Bureau Federation, and VDACS staff serves on its board. The board meeting was held at Sweethaven Lavender, a client of VA FAIRS from Williamsburg, and featured remarks from Commissioner Guthrie and Perry Hickman, the Virginia State Executive Director of USDA-Rural Development. The board and its key partners also toured other businesses that have been assisted by VA FAIRS, including local Hereford beef producer and retailer Coastal Cattle (Virginia Beach), produce farm and agritourism destination Cullipher Farm Market (Virginia Beach), and Summerwind Vineyard (Smithfield).

## *Division of Marketing*

In May, the Office of Agriculture and Forestry Development (OAFD) announced the recipients of the second round of Virginia Food Access Investment Fund (VFAIF) grants. In total, six projects were awarded, totaling \$300,000 in funding. The awardees are as follows: (i) \$50,000 to Feeding Southwest Virginia in Salem to support its mobile marketplace, which serves 23 rural communities; (ii) \$50,000 to FRESHFARM in Fairfax County to support its innovative pop-up food hubs; (iii) \$50,000 to the Local Environmental Agriculture Project (LEAP) in Roanoke, which will assist in the development of the West End Hub retail store and food hub; (iv) \$50,000 to Lee District Community Farm Market in Fairfax County to aid in the establishment of a weekly community farm market on the site of a new community center; (v) \$50,000 to River City Market in Richmond to support the market's "Fresh Start" initiative, which includes a major expansion of produce sales and weekly mobile markets; and (vi) \$50,000 to Wakefield Great Valu in Sussex County, which will be used for the full replacement and expansion of the store's produce cases. Since the first VFAIF announcement in July 2021, VDACS has awarded 21 projects a total of \$920,988 to increase fresh food access across the Commonwealth.

In June, VDACS hosted a 2,000 square foot Virginia Pavilion at the Specialty Food Association's 2022 Summer Fancy Food show at the Javits Center in New York City. This show is the largest U.S. show devoted exclusively to specialty foods and beverages and featured buyers and exhibitors from around the world. Fourteen Virginia companies exhibited at the show. The Virginia Pavilion included Virginia based companies offering meats, seafood, peanuts, sauces, spices, baked goods, snack foods, and beverages. Overall the show featured 1,800 exhibitors from 50 countries. Buyers from all major U.S. retailers and other businesses such as QVC and Madison Square Garden attended the show and expressed interest in products from the exhibiting Virginia companies.

In June, Office of International Marketing (OIM) staff hosted the SUSTA inbound European buyers mission. The European buyers met with Virginia food and beverage in Richmond and Sterling. The product focus for the mission included food service products, ingredients, natural/health products, and organic products. The buyers met with nine Virginia companies and indicated strong interest in several products, including Clark and Hopkins hot sauces (Winchester) and PastryBase baking mixes (Richmond). OIM staff will assist companies in further discussions with the buyers to develop the relationships made during the meetings and continue sales discussions.

In June, the Middle East trade representative, whose contract began with VDACS in March 2022, traveled to Virginia to meet with a variety of Virginia companies, including forest products and food and beverage companies. During this visit, the trade representative also participated in the June SUSTA trade mission meetings and traveled to the Summer Fancy Food Show in New York City to meet with companies exhibiting in the Virginia pavilion. The purpose of this visit was to familiarize the trade representative with the Virginia agriculture industry and to introduce Virginia companies whose products are suitable for the Middle Eastern region.

In June, OIM sponsored booth space at Alimentec, the main international fair for the food, beverage, and hospitality sector in the Andean, Central American, and Caribbean regions. The event included 325 exhibitors from 18 countries and attracted more than 25,000 visitors. Commercial Lynks (Alexandria) exhibited in the booth space with VDACS. The Latin America trade representative staffed the VDACS

booth to represent Virginia specialty food and beverage products and collected leads to share with the industry.

In May, the Europe trade representative assisted three Virginia distilleries exhibiting at ProWein in Dusseldorf, Germany. ProWein is the largest European industry meeting for professionals from viticulture, production, trade, and gastronomy. The event provides three days of concentrated business and a highly promising ancillary program. VDACS sponsored booth space at the show and recruited Catoctin Creek Distilling Company (Purcellville), Belmont Farm Distillery (Culpeper), and Reservoir Distillery (Richmond) to exhibit. Catoctin Creek has reported new sales and the acquisition of a new distributor in Europe as a result of its participation. Exhibiting at the show has also resulted in the establishment of new relationships with potential import and distribution partners in Europe for Reservoir Distillery and Belmont Farms. In June, the trade representative met with a potential partner in the United Kingdom on behalf of Reservoir Distillery, and in July, the trade representative met with Compagnia Dei Carabaibi (CDC), a major spirits trade importer, distributor, and restaurant and hotel supplier of spirits and wines throughout the Italian region, on behalf of Belmont Farms. CDC showed extremely strong interest in Virginia craft whiskeys and is interested in importing Belmont Farms craft whiskey into the Italian region.

In May, OIM sponsored booth space at BrewLDN, a craft beer festival in London. Two Virginia craft breweries, Three Roads Brewing (Farmville) and Virginia Beer Company (Williamsburg) exhibited in the booth space and were assisted by the Europe trade representative. Both breweries indicated that their participation resulted in sales opportunities and that they have continued to follow-up with potential partners.

Earlier this year, the Middle East trade representative assisted The Turman Group (Floyd) with its exhibit at the Dubai WoodShow in VDACS-sponsored booth space. The Dubai WoodShow is the region's premier trade event for the wood and woodworking machinery industry. Following the show, Turman staff expressed that the trade representative's assistance throughout the show was invaluable and stated that they would not have been able to have a successful show without them. In June, Turman reported sales of five containers of lumber valued at approximately \$100,000 as a result of its participation in the show with anticipated additional sales to follow.

In June, the Office of Domestic Marketing and Promotions (ODMP) received the May reports tracking the Google, Facebook, and YouTube campaigns for the Virginia Grown digital campaign. The campaigns experienced a strong month with Google Display and Responsive ads. The campaign's Click-Through-Rate (CTR), which is the rate at which individuals clicked on the ad, performed over 770 percent above the benchmark for a successful campaign and 125 percent above April's CTR. The Facebook ads also performed well. The Facebook campaign's reach, which measures the number of people who saw the ads at least once, scored 6.5 percent of the potential audience size, which is 30 percent above the benchmark for what is considered a strong performance. Frequency, which is the average number of times the audience saw the ad, was at 3.98 people, which is 32 percent above the high end of the benchmark range and 31 percent above April's results. Finally, Estimated Ad Recall, which is the number of people who will remember seeing the ad if asked within two days, was also at the high end of the benchmark range at 12.69 percent, 81 percent above the high end of the benchmark range and 82 percent above April's results.

In May and June, ODMP staff participated in the following six events: VSU Boots to Roots Field Day; 7th Annual Strawberry Variety and Advanced Selection Showcase in Faison, NC; Virginia Small Grains Field Day; Cotton Board's Women in Ag Tour in North Carolina; Georgia/Florida Tobacco Tour (which was organized by University of Georgia Cooperative Extension); and the Southern Piedmont Agricultural Research and Extension Center Leadership Council meeting. ODMP staff also attended the National Restaurant Association Trade Show at McCormick Place convention center in Chicago, the Sweets & Snacks Expo in Chicago, and the Specialty Food Association's 2022 Summer Fancy Food Show in New York. Each of these shows attracted an average of 50,000 visitors a day.

In May and June, ODMP staff worked with the Department of the Aging and Rehabilitative Services and Virginia farmers to implement the 2022 Senior Farmers' Market Nutrition Program WIC (SFMNP/WIC) Nutrition Program. ODMP staff worked to approve 179 returning farmers and 18 new farmers for the program. The SFMNP/WIC is designed to provide access to locally grown fruits, vegetables, honey, and herbs to low-income seniors and women with infant children.

In June, the Office of Food Distribution (OFD) was awarded a USDA Reach and Resiliency grant. Grant funds total \$627,837 and will provide for improvements to the Emergency Food Assistance Program (TEFAP) operated at the Federation of Virginia Foodbanks. The project activities include a contracted analysis of current TEFAP coverage within the Commonwealth, the conversion of a mobile food pantry vehicle for the Central Virginia Food Bank, funding for staffing and food storage for mobile pantry distributions at Feeding Southwest Virginia, and adding freezer storage and purchase of a cargo van for the Fredericksburg Regional Food Bank.

In June, OFD awarded a \$5 million sub-grant to the Federation of Virginia Foodbanks to administer a Food Purchase Program with funds provided through the federal American Rescue Plan Act. The Federation of Virginia Food Banks and its seven partner food bank networks will use the funds for food purchases to shore up shelf-stable inventory and purchase low-cost produce, dairy, meat, and other proteins and a variety of shelf stable foods for distribution to support underserved communities and school and college partnerships.

Market News reports that feeder cattle sales continue to be active. Over 17,000 head of feeder cattle were sold at Virginia state graded sales in May. May monthly average prices were \$1.00 to \$6.00 lower per hundredweight compared to April, but prices are still trending higher than historical averages. Virginia feeder cattle prices are mostly 15 percent higher than last year and 11 percent higher than the five-year average.

Market News continues to publish the *Cattle & Crops* and the *Virginia Ag Brief* newsletters on a weekly basis. *Cattle & Crops* provides prices and summary information from Virginia livestock auctions and state graded sales. Also included are Virginia grain prices as well as national production and supply reports of interest to Virginia producers. *Virginia Ag Brief* contains a weekly summary of Virginia livestock and grain prices and is distributed to print and broadcast media throughout the state. The broadcast version is sent to 25 radio stations, and the print version is emailed to 40 newspapers throughout the Commonwealth. Market News also publishes an online version of the *Hay Clearing House* newsletter. This 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. In the most recent issue of the publication, Market News included an announcement and contact information related to New Mexico's hay shortage. The New Mexico Department of Agriculture requested help locating hay for its producers due to extreme drought. Market News continues to receive compliments from producers who report that the *Hay Clearing House* newsletter is the primary marketing tool they use to sell hay.

#### *Division of Commodity Services (DCS)*

Since May 20, Division of Commodity Services (DCS) Staff:

- Conducted Terminal Market and Shipping Point Inspections on 164,946 pounds of fresh fruits and vegetables and Processed Food Inspections on 636,226 pounds of processed products;
- Performed three Good Agricultural Practices (GAP) Audits;
- Inspected and certified grain commodities, including soybeans, corn, wheat, barley, soybean meal, and soybean hull pellets, with a total value of more than \$319 million destined for 20 countries;
- Conducted one wheat inspection workshop and two corn workshops for two grain dealers;
- Visited 13 grain dealers to ensure compliance with the Virginia Grain Law;
- Provided livestock evaluation services to producers on approximately 20,801 cattle, 112 lambs and goats, 42 head of junior market livestock, and graded 224 beef carcasses;
- Inspected and certified approximately 46,672,000 pounds of Farmers' Stock peanuts and regrades, approximately 38,458,438 pounds of shelled and in-shell milled peanuts, and 3,183,247 pounds of imported peanuts from Argentina;
- Analyzed approximately 1,009 samples of peanuts for the presence and levels of aflatoxin to determine if the peanuts were safe for human consumption;
- Provided grading, inspection, and certification services to multiple potato packing sheds on the Eastern Shore to assure the potatoes are meeting the buyers contract terms or export requirements;
- Certified 963,737 pounds of various poultry parts for the USDA Feeding Program for School Lunch Products;
- Graded, via contracted full-time grading services, 26,648,956 pounds of chicken and 9,594,445 pounds of turkey for the Virginia poultry and egg industry;
- Provided non-contract fee grading and certification services for 109,925 pounds of poultry based on U.S. Consumer Grades to fulfill necessary specifications and contract requirements for the Virginia poultry and egg industry.

In May, the DCS Director and the Program Manager of Poultry and Egg Services (P&E) helped lead the 28<sup>th</sup> annual National Egg Quality School (NEQS) held in Indianapolis, Indiana. The DCS Director serves as NEQS Secretary, and the P&E Program Manager serves as NEQS Assistant Director. The NEQS offers a curriculum that includes egg formation, abnormalities, interior and exterior egg quality, conserving egg quality, food safety, and up-to-date information and technologies to individuals with responsibilities or interest in assuring the distribution of quality shell eggs throughout the marketing chain. VDACS has been an active supporter of this school since its inception.

In June, the Office of Fruit and Vegetable Services hosted its annual potato inspector training school at the VDACS Melfa Office. Personnel received classroom instruction and on-the-job training. Seasonal potato inspector duties performed will include grading and certifying potatoes for defects, size, cleanliness, and identification of other requirements of the U.S. Grade. Staff issued certificates stating compliance with export requirements, truck cleanliness, and grade requirements.

Since May, DCS staff participated in several events related to Virginia cattle. In May, staff participated in the Virginia Cattlemen's Association (VCA) monthly "Productive and Profitable" Webinar series. Staff also participated in the VCA Feeder Council Meeting, the Rockingham County Cattlemen's Association (RCCA) Board Meeting, and the RCCA Annual Meeting and Banquet.

In June, VDACS exhibited at the 2nd Annual Delmarva Chicken Association (DCA) Booster BBQ Event at the Delaware (DE) State Fairgrounds in Harrington, DE. VDACS was also an event sponsor. VDACS Poultry and Egg Services provide official grading services at two poultry processing facilities on Virginia's Eastern Shore: Perdue and Tyson. Additionally, DCS provides grading, inspection, and certification services to fruit and vegetable producers on the Eastern Shore. More than 800 DCA members and industry supporters of the chicken community registered to attend the DCA event.

#### *Division of Animal and Food Industry Services (AFIS)*

In June, Office of Veterinary Services (OVS) staff conducted a livestock interdiction check on Interstate 77 in Carroll County. The interdiction check was a cooperative effort between OVS and Virginia Department of Motor Vehicles Motor Carrier Safety personnel. Six livestock transport vehicles were stopped and checked for the origin and destination of the livestock shipment and to determine if Certificates of Veterinary Inspection accompanied the animals during transit. The interdiction was for educational purposes, and each transporter was provided with a list of Virginia's animal import requirements.

In June, Office of Laboratory Services (OLS) and OVS staff that serve as National Poultry Improvement Plan (NPIP) Official State Agents traveled to Dallas, Texas, for the NPIP Biennial Meeting to serve as delegates representing Virginia's poultry industry. The first two days of the meeting focused on new technologies seeking NPIP approval and the meeting of the NPIP National General Conference Committee. The second and third days of the conference were spent in breakout sessions during which proposed changes to the Code of Federal Regulations (CFR) and NPIP Program Standards were discussed and voted on by committees. The OLS Program Manager (as a member of the General Conference Committee) worked as part of the coordinating council to compile all committee recommendations for presentation to the delegation and for voting on the final day. On the

final day of the conference, all official state delegates voted on the recommended changes to the CFR and NPIP Program Standards. Changes included technical and regulatory requirements for the NPIP Program.

In June, OVS staff participated in the Virginia Poultry Disease Task Force meeting. The Virginia Poultry Disease Task Force meets quarterly and includes representatives from the commercial poultry industry, USDA, VDACS, the Virginia Department of Environmental Quality, and Virginia Tech. Presentations included a review of Highly Pathogenic Avian Influenza (HPAI) and response efforts in Virginia's HPAI positive farm in February. The meeting also covered updates to Virginia's Initial State Response and Containment Plan (ISRCP), resource list, and biosecurity plans.

In June, OVS staff observed the Incident Management Team coordinating the HPAI response in Pennsylvania. The team was a mix of USDA and Pennsylvania Department of Agriculture staff. OVS staff was able to observe the coordination of activities during the response and note the responsibilities of a variety of positions on the team. This observation provided VDACS staff with opportunities to gain additional knowledge on HPAI incident response, which will enhance Virginia's preparedness in the event of future HPAI outbreaks in the Commonwealth.

Since July 2021, OVS staff have performed a total of 74 animal shelter inspections. Of those 74, there were 27 citations for violations made and 16 shelters referred for a penalty assessment as a result of violations.

Since May, OLS has completed 32,975 tests. Details of the tests performed are as follow:

Tests Performed at VDACS Regional Animal Health Laboratories Since May 2022	
Bacteriology	1,203
Dairy Microbiology	1,383
Food Safety	503
Hematology/Clinical Pathology	252
Mammalian Serology	5,943
Molecular Testing	1,417
Parasitology	481
Pathology	422
Poultry Serology	21,212
Virology	30
Water Testing	129
<b>Total Lab Tests Conducted</b>	<b>32,975</b>

Since June, VDACS staff has participated in four meat processing listening sessions, held in the counties of Buckingham, Culpeper, Rockingham, and Wythe, hosted by the Virginia Farm Bureau Federation to gather feedback from processors, producers, consumers, elected officials, and other concerned citizens regarding their experiences with meat processing accessibility since 2020. Division



of Marketing (DM) staff collected qualitative data from these sessions for the development of a strategic plan as required by Chapter 310 of the 2022 Acts of Assembly. Office of Meat and Poultry Services (OMPS) staff also participated in the sessions to provide input regarding the regulatory oversight of slaughter facilities. Attendees shared a variety of concerns, including experiences with negative feedback from the local community around the expansion or start-up of meat processing facilities, permitting, labor shortages, long lead times to procure meat processing equipment, waste management and the disposal of hides and other animal by-products, aging facilities, limited capital for infrastructure replacement and expansion, and issues with inspectors and the inspection process. DM staff has identified multiple project leads for new and expanding meat processors, including candidates for assistance through the AFID program, and is working to organize the received feedback and develop viable initiatives to incorporate into the five-year strategic plan.

OMPS continues to work with new facilities that have applied for federal grant funds. Two such facilities are located in the Madison/Gordonsville area. Both facilities are in rural locations and will be able to provide both slaughter and processing operations. The establishment of these facilities will provide Virginia livestock producers with more options for having their animals slaughtered and processed. Currently, there are only custom exempt facilities in these areas, and the need for inspected products is growing daily. Producers continue to have long wait times and must drive several hours to get their animals processed. OMPS continues to work with Virginia State University (VSU) on its mobile slaughter and processing unit. The unit operators are having difficulties obtaining necessary equipment due to supply chain shortages, which has delayed the unit's launch. VSU is predicting a start date sometime in July. Once launched, the VSU mobile unit will travel throughout Virginia to provide slaughter and processing services to farmers with sheep and goats. The addition of these facilities will provide Virginia farmers with opportunities to direct market their products without the expense of building and maintaining an inspected facility.

In April, USDA announced that it would provide \$23.6 million in a second round of federal Meat and Poultry Inspection Readiness Grants (MPIRG). The grant money will be provided to qualified facilities to cover the costs of improving slaughter and processing capacity and efficiency; developing new and expanding existing markets; increasing capacity to better meet consumers and producers demands; maintaining strong inspection and food safety standards; and increasing access to slaughter and process facilities for new and beginning small farmers, socially disadvantaged producers, veteran producers, or underserved communities. In addition to the MPIRG, USDA announced that it would invest \$25 million in The Meat and Poultry Expansion Program (MPPEP). This program will provide grants to help eligible processors to expand their capacity by building new processing facilities or modernizing or expanding existing processing facilities; developing, installing, or modernizing equipment and technology; helping to ensure compliance with packaging and labeling requirements; upholding occupational and safety requirements; modifying facilities or equipment to protect food safety; paying for voluntary grading services on value added products; offsetting cost associated with becoming an inspected facility; and supporting workforce recruitment, training, and retention. Both grants have since closed, and OMPS has not heard of any additional grant that will be announced at this point.

Since May, OMPS has received requests to begin inspection services between July and August from KC Farms (Ferrum) and The Butchers Block (Dry Fork). Both facilities received USDA MPIRG grant funding in November 2021 and will offer slaughter and processing services to local farmers throughout Virginia, North Carolina, and Tennessee under VDACS's Talmadge-Aiken (T/A) program. T/A plants

are meat and poultry plants in the U.S. in which state agency inspectors perform federal safety inspections.

OMPS receives daily inquiries on the requirements to achieve a grant of inspection to provide slaughter and processing services within Virginia. Several custom slaughter facilities have expressed interest in obtaining grants of inspection. Providing inspection at new establishments could be hindered by the difficulties OMPS has experienced in hiring new employees. The VSU mobile unit will move around the state to various farm locations, and the new facilities receiving USDA grant funds are located in remote areas not already covered by existing inspectors. This will create staffing challenges for OMPS. The cattle industry also continues to report challenges with hiring and retaining employees at their facilities.

The Office of Dairy and Foods (ODF) Food Safety Program (FSP) participates in economic development activities with persons interested in selling food products in Virginia by reviewing new food business proposals and assisting in the development of safe food processes. From April through May, FSP performed the inspections necessary to open 120 new food businesses. A total of 227.5 hours were spent working with vendors to open these firms. FSP has an inventory of 13,124 firms under inspection. Twenty-eight Food Safety Specialists, three Food Safety Technical Specialists, and three Field Supervisors are responsible for the regulatory oversight of these firms.

The ODF FSP also works to ensure that food and dietary supplements manufactured, processed, stored, and sold in Virginia are safe, wholesome, and properly labeled. From April through May, FSP conducted 1,533 inspections of food establishments (which includes retail food stores, food manufacturers, and food warehouses), investigated 57 consumer complaints, and collected 141 food samples.

Chapter 204 of the 2022 Acts of Assembly amended the Virginia Food and Drink Law to require any food manufacturer, food storage warehouse, or retail food establishment to obtain a permit from the Commissioner following the Commissioner's inspection and prior to operation. Chapter 204 also required the Commissioner to issue a permit to any food manufacturer, food storage warehouse, or retail food establishment legally operating on July 1, 2022, that satisfactorily completed its most recent food safety inspection. Any such entity issued a permit would be exempt from any other license, permit, or inspection required for the sale, preparation, or handling of food unless it is operating as a restaurant as jointly determined by the State Health Commissioner and the Commissioner or, as determined by the State Health Commissioner only, a plant that processes and distributes Grade A milk or a shellfish establishment. In July, permits were sent by ODF program staff to the 11,415 legally operating firms under inspection

During the months of April and May, the ODF Dairy Services Program (DSP) conducted 236 inspections of Grade "A" and manufactured-grade dairy farms and 44 cheese and ice cream manufacturing plant inspections. To ensure compliance with Virginia's regulatory standards, program staff collected 570 milk samples from Virginia Grade "A" dairy farms. One hundred ninety-five (195) cheese and frozen dessert samples were collected to determine compliance with current dairy laws and regulations. Dairy inspectors also performed 1,051 extensive phone discussions with producers and physical on-farm visits to review construction of dairy facilities, the installation of milking equipment and other related items, and offer advice and assistance to dairy farmers and manufactured milk

processors. The Dairy Services Program also provided advice and regulatory input to three new Grade “A” dairy farms, one new cheese manufacturing facility, and three new ice cream manufacturing plants.

The ODF Produce Safety Program (PSP) is continuing to conduct inspections of farms covered by the federal Produce Safety Rule. The PSP has also continued to pursue the location and inspection of additional farms that are not yet part of its inspection inventory. There are currently 270 covered produce farms that are part of the programs inspection inventory (which includes large, small, and very small farms) with another 652 in the PSP’s database that are exempt from the Produce Safety Rule. In August 2021, the 2018 Dun & Bradstreet/ US Farm survey data set for Virginia was merged with the Produce Safety database, which added 4,885 new farms with possible produce sales. PSP Inspectors have been working to verify farm data in their respective territories.

In July, the PSP launched a new voluntary farm registration application portal. This new web-based portal was designed using \$54,800 in federal grant funding from the U.S. Food and Drug Administration (FDA). Farms currently in the database will be able to update their farm registration information, farm demographics, and print a newly implemented certificate of registration. This certificate will also feature the newly designed Virginia Grown logo, and farm registration information will be shared with the Virginia Grown Program as a way to integrate both the regulatory and marketing/promotions function of the agency. These certificates can be used by produce farmers to gain entry into new retail marketplaces, farmers’ markets, and food service establishments. PSP expects the impact of this new portal to be a significant way to facilitate the participation of farmers and consumers in the buy local movement as well as to promote the regulatory partnership and future information sharing capabilities between farmers and government.

VDACS understands the 2022 Appropriation Act’s language and provision of additional funding and positions to be a clear directive from the General Assembly and Governor Youngkin to VDACS to address the sale of food products that contain ingredients, including cannabinoids, that do not meet the definition of “industrial hemp extract” through its administration of the Virginia Food and Drink Law (Law). To that end, in July, the VDACS Office of Dairy and Foods (ODF) distributed a mass email to Virginia food manufacturers, food storage warehouses, retail food establishments, and registered industrial hemp processors and dealers advising that all products intended for human consumption that contain a cannabinoid must meet the requirements of the Virginia Food and Drink Law. The email outlined VDACS’s assessment of specific products that include ingredients like synthetically created delta-8 tetrahydrocannabinol, about which the agency has received complaints, and offered assistance to manufacturers and retailers that wish to produce food containing cannabinoids in compliance with the Law.

#### *Division of Consumer Protection (DCP)*

In May and June, Office of Plant Industry Services (OPIS) staff participated in conference calls with the National Association of State Departments of Agriculture (NASDA) to discuss use of the Gap Assessment Tool, which helps states assess their current ability to implement the federal Preventive Controls for Animal Food (PCAF) rule. Through a cooperative agreement with FDA, NASDA is working to compare state authorities regarding the production of animal food, determine the resources needed to successfully implement a state animal food safety rule, and draft a strategic plan to assist

states in aligning their animal food safety requirements with FDA's Current Good Manufacturing Practice, Hazard Analysis, and Risk-based Preventive Controls for Animal Food Rule.

In May, spotted lanternfly (SLF) egg hatch was observed across the Commonwealth. OPIS staff continues to target SLF treatments on outlying populations of the infestation as well as in isolated locations where populations are small. As the insect populations shift from the egg mass life stage to primarily nymphs, OPIS staff will adjust treatment activities to either systemic or contact insecticides, in accordance with the SLF Environmental Assessment developed by USDA.

- In May, OPIS staff treated approximately 130 egg masses in Bristow, a location where SLF has a small population.
- In May, OPIS staff hosted a SLF egg mass treatment and delimiting survey in Lynchburg. Two trained spotted lanternfly detector dogs and their handlers from the North Carolina Department of Agriculture and Consumer Services and staff from the Virginia Department of Forestry participated as well. The trip served as an opportunity to evaluate the practical applications and limitations of detection dogs in a forested and urban setting while delineating the SLF population. In Lynchburg, the SLF population was found to emanate outward from the train tracks and the campus of Liberty University. Approximately 80 egg masses were destroyed and nymph hatch was observed.
- Beginning in June, contracted treatments at high-priority sites began for SLF using contact insecticide treatments. Treatments are performed with backpack sprayers or hydraulic spray trucks applying Bifenthrin directly to SLF nymph and adult life stages. Treatments for adult SLF will continue throughout the summer and into October or November.
- In June, OPIS staff performed systemic insecticide injection treatments to male Ailanthus trees at high risk sites in Virginia to combat early SLF life stages. Systemic injections provide several months of protection against the insect and have a higher efficacy rate. High risk sites include those that are isolated locations that present a risk of being further transported to uninfested parts of Virginia. Treatments occurred at several sites in Bristow and Toms Brook, and it is expected that additional systemic treatments will continue through the summer and into early fall.

In May, OPIS staff received notification that two species of terrestrial land snails were confirmed in Suffolk on plastic containerized products imported from Spain. Both species of snails (*Cornu aspersum* or *Helix aspersa* and *Massylaea vermiculata* or *Eobania vermiculata*) are not known to occur naturally in Virginia, and both are considered plant pests by the scientific community. These species are not on the USDA-APHIS quarantine list and were, therefore, not treated prior to their shipment to locations outside of Virginia. In an effort to ensure that no snails escaped, OPIS staff performed a follow-up inspection at the location where these containers were held in Suffolk. OPIS staff inspected the building, surrounding structures, landscape plants, and surrounding environs and found no evidence of additional snails. Additional surveys will continue at this location going forward.

In May, OPIS Plant Pathology Laboratory staff performed the diagnostic "blind" screening test required to obtain certification to diagnose *Phytophthora ramorum* (*P. ramorum*). *P. ramorum*,

commonly known as Sudden Oak Death, is a harmful fungal pathogen that can cause mortality in several oak tree species and also causes twig and foliar diseases in numerous native and non-native ornamental plants, shrubs, and trees in Virginia. In June, OPIS received notification that the Plant Pathology Lab had successfully completed analysis of the *P. ramorum* test panel and was certified for the 2022 National Plant Protection Laboratory Accreditation Program. As a *P. ramorum* certified lab, VDACS will be able to provide accurate and rapid confirmation of the presence of this plant pathogen to the nursery industry.

In May and June, OPIS staff worked in partnership with the U.S. Forest Service to conduct aerial applications of the mating disruption pheromone in Virginia for the 2022 Slow the Spread (STS) spongy moth (formerly known as gypsy moth) treatment season. Applications began on June 1 in Southeastern Virginia and moved westward as treatment blocks were completed. Treatments were completed on June 14 on a total of approximately 42,500 acres in the localities of Virginia Beach, Chesapeake, Suffolk, Pittsylvania, Halifax, Carroll, and Tazewell. Spongy moth survey trapping will continue through the summer.

In June, OPIS was notified by USDA APHIS that the plant pathogen, *Rhizoctonia theobromae*, was confirmed from samples collected from a Virginia nursery. *Rhizoctonia theobromae*, commonly named Vascular Streak Dieback, is a fungal disease that causes vascular tissue to die and can lead to overall plant death. The infected plants were several cultivars of redbud trees. Symptoms of the disease were also observed in dogwoods, wax myrtle, and magnolia but, to date, has not been confirmed. OPIS staff issued stop sale orders for the plants that were confirmed positive. OPIS is working with VCE to obtain additional information about the disease and treatment options. OPIS staff will survey for *Rhizoctonia theobromae* while performing nursery inspections.

In April, VDACS issued a Request for Proposals for an online remote testing option for prospective pesticide applicators. Any online solution has to meet the minimum federal requirements for certification, including security precautions ensuring the integrity of the exam questions and identity of the individual authorized to take the exam. Fees for online testing will be paid directly by the prospective applicator to the online test provider. In response to the Request for Proposal, six proposals were received and evaluated by the VDACS Evaluation Committee. A decision on the proposals is anticipated later this summer. If implemented, the online remote testing option will be in addition to the current options offered to prospective applicators, including testing conducted at the Virginia Department of Motor Vehicles (DMV) and in-person proctored testing.

In May, the Office of Pesticide Services (OPS) hosted the final meeting with contractors for the development of the Spanish Language Registered Technician Certification Exam. Next steps include working with DMV to make the newly created exam available to prospective applicators utilizing DMV's computerized testing option and updating LXR Test, the software package used by OPS for item banking, construction and printing of paper tests, manual entry, and editing of response data. Once the new exam is available to prospective applicators, OPS will notify stakeholders of its availability.

In May, OPS printed and mailed approximately 5,100 pesticide applicator renewal letters for individuals whose certificates will expire on June 30, 2022. Effective March 17, 2022, the fee for pesticide applicators to renew their certificates has been eliminated. While there is no longer a fee for certificate renewal, pesticide applicators are still required to take one recertification course every two

years before their certificate expires. OPS implemented an online system for applicator certification in March. Due to technical issues with the system, the entry of recertification credit was delayed. In June, staff sent letters to all licensed pesticide businesses regarding the delay and providing guidance for those businesses that sell restricted use pesticides as well as those that apply pesticides. Specifically, the letter provided the following information:

- For pesticide businesses that sell restricted use pesticides: A currently certified applicator who wishes to purchase a restricted use pesticide may not have their renewal certificate until after June 30. Pesticide businesses needing to confirm the certification status of an applicator prior to the sale of a restricted use pesticide can contact OPS to obtain this information.
- For pesticide application businesses with applicators whose certificate expires on June 30, 2022: Applicators who took the required recertification course prior to June 30 are certified and may legally apply pesticides.
- For those applicators who are due for renewal but have not completed the required recertification course(s) by June 30, 2022, their certificate will expire. If a pesticide applicator applies a pesticide after June 30 and has not completed the required recertification course, they will be in violation of Virginia's laws and regulations and subject to enforcement action. Applicators who do not take a recertification course by August 29 of the expiration year listed on their certificate and who wish to be certified are required by law to retest, which requires submission of an application and fee.

In calendar year 2021 (CY 2021), OPS collected a total of 61,057 pounds of unwanted pesticides during the 2021 Pesticide Collection Program. The areas served included the counties of Arlington, Caroline, Essex, Fairfax, Gloucester, King & Queen, King George, King William, Lancaster, Loudoun, Mathews, Middlesex, Northumberland, Prince William, Richmond, Spotsylvania, Stafford, and Westmoreland. Since the program's inception, more than 1.6 million pounds of pesticide materials have been collected in Virginia.

In CY 2021, OPS collected and granulated 14,326 pounds of properly rinsed empty plastic pesticide containers from three sites during the 2021 Plastic Pesticide Container Recycling Program. Due to a break in service from the Ag Container Recycling Council (ACRC) contractor, these volumes were down from the 167,298 pounds collected from 26 sites throughout the state during the 2020 Plastic Pesticide Container Recycling Program. To date, this program has collected over 2.4 million pounds of plastic pesticide containers in Virginia.

	FY 2023		FY 2024	
	Chapter 2		Chapter 2	
	Dollars	FTE	Dollars	FTE
<b>Chapter 552 (2021 Appropriation Act)</b>	\$ 81,028,948	569.00	\$ 81,028,948	569.00
<b>Technical Adjustments</b>				
General Fund	\$ 1,229,741		\$ 1,229,741	
Nongeneral Fund	\$ 680,921		\$ 680,921	
<b>Total Technical Adjustments:</b>	\$ 1,910,662	-	\$ 1,910,662	-
<b>Increases:</b>				
<b>Provide inspection services for new and expanding meat processing facilities (Executive Amendment) (GF/NGF)</b>	\$ 300,000	3.00	\$ 300,000	3.00
<b>Virginia Fresh Match Nutrition Incentive Program</b>	\$ 1,000,000	-	\$ 1,000,000	-
<b>Regulation of Hemp Products</b>	\$ 700,000	7.00	\$ 700,000	7.00
Increase support for the Agriculture and Forestry Industries Development (AFID) Fund and administration	\$ 597,213	1.00	\$ 347,213	1.00
Capitalize and establish the Virginia Spirits Promotion Fund	\$ 952,375		\$ -	-
Increase support for invasive species early detection and rapid response	\$ 300,000		\$ 275,000	-
Increase the deposit to the Virginia Wine Promotion Fund	\$ 626,640		\$ 501,640	-
Provide salary support to improve recruitment and retention of environmental specialist positions	\$ 335,000	-	\$ 335,000	-
Improve veterinarian recruitment and retention through salary support	\$ 300,000	-	\$ 300,000	-
Replace weights and measures large capacity scale truck	\$ 240,000	-	\$ -	-
Partner with Virginia State University (VSU)'s Small Farm Outreach Program	\$ 30,000	-	\$ 30,000	-
Provide additional positions for pesticide registration (NGF)	\$ 175,091	2.00	\$ 170,091	2.00
<b>Total Increases:</b>	\$ 5,556,319	13.00	\$ 3,958,944	13.00
<b>Decreases:</b>				
Remove funding for Dairy Producer Margin Coverage Premium Assistance Program			\$ (1,000,000)	-
<b>Total Decreases</b>	\$ -	-	\$ (1,000,000)	-
<b>Net change with new legislation</b>	\$ 5,556,319	13.00	\$ 2,958,944	13.00
<b>Chapter 2 - 2022 Budget Bill</b>	\$ 88,495,929	582.00	\$ 85,898,554	582.00
<b>Percentage change over Chapter 552</b>	9.22%	2.28%	6.01%	2.28%
<b>Chapter 2 - 2022 Budget Bill - General Fund</b>	\$ 49,249,000	344.00	\$ 46,656,625	344.00
<b>Percentage change over Chapter 552</b>	15.10%	3.93%	9.04%	3.93%

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# VIRGINIA STATE BUDGET

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2022 Special Session I

## Budget Bill - HB30 (Chapter 2)

Bill Order » Part 4: General Provisions » Effective Date » Item 4-14

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### Item 4-14

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#### § 4-14.00 EFFECTIVE DATE

This act is effective on July 1, 2022.

#### ADDITIONAL ENACTMENTS

#### 2. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:

##### 58.1-301. Conformity to Internal Revenue Code.

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on ~~December 31, 2020~~, *December 31, 2021*, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;
2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;
3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;
4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument";
5. For taxable years beginning on and after January 1, 2019, the suspension of the overall limitation on itemized deductions under § 68(f) of the Internal Revenue Code;
6. For taxable years beginning on and after January 1, 2017, but before January 1, 2018, and for taxable years



beginning on and after January 1, 2019, the 7.5 percent of federal adjusted gross income threshold set forth in § 213(a) of the Internal Revenue Code that is used for purposes of computing the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code. For such taxable years, the threshold utilized for Virginia income tax purposes to compute the deduction allowed for expenses for medical care pursuant to § 213 of the Internal Revenue Code shall be 10 percent of federal adjusted gross income;

7. The provisions of §§ 2303(a) and 2303(b) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the net operating loss limitation and carryback;

8. The provisions of § 2304(a) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to a loss limitation applicable to taxpayers other than corporations;

9. The provisions of § 2306 of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 (2020), related to the limitation on business interest; and

10. For taxable years beginning before January 1, 2021, ~~the~~ the provisions of §§ 276(a), 276(b)(2), 276(b)(3), 278(a)(2), 278(a)(3), 278(b)(2), 278(b)(3), 278(c)(2), 278(c)(3), 278(d)(2), and 278(d)(3) of the federal Consolidated Appropriations Act, P.L. 116-260 (2020), and §§ 9673(2), 9673(3), 9672(2), and 9672(3) of the federal American Rescue Plan Act, P.L. 117-2 (2021) related to deductions, tax attributes, and basis increases for certain loan forgiveness and other business financial assistance.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**3. That § 58.1-339.8 of the Code of Virginia is amended and reenacted as follows:**

**58.1-339.8. Income tax credit for low-income taxpayers.**

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Household" means an individual, or in the case of married persons, an individual and his spouse, regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B.1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a *nonrefundable* credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married individuals' income tax return for the taxable year. For any taxable year in which married individuals file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against

such tax of a dependent of the individual or of married individuals.

2. For taxable years beginning on and after January 1, 2006, any individual or married individuals, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a *nonrefundable* credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married individuals for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 or 3 for the same taxable year.

3. For taxable years beginning on and after January 1, 2022, but before January 1, 2026, any individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision 1 or 2, claim a *refundable* credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 15 percent of the credit claimed by the individual or married persons for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. The refundable credit shall be claimed on the Virginia income tax return and redeemed by the Tax Commissioner. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision 1 or 2 for the same taxable year.

~~For the purpose of this subdivision, "household" means an individual and, in the case of married individuals, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.~~

C. The amount of the credit ~~provided~~ claimed pursuant to ~~subsection~~ subdivision B 1 and B 2, or in the case of a nonresident or a person to which § 58.1-303 applies, subdivision B 3, for any taxable year shall not exceed the individual's or married individuals' Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married individuals' income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision 8 of § 58.1-322.02;
2. The subtraction under subdivision 15 of § 58.1-322.02;
3. The subtraction under subdivision 16 of § 58.1-322.02;
4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision 2 b of § 58.1-322.03; or
5. The deduction under subdivision 5 of § 58.1-322.03.

**4. That the provisions of the third enactment clause of this Act shall apply for taxable years beginning on and after January 1, 2022.**

**5. That § 58.1-611.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal hygiene products.**

A. ~~The~~ *Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption and essential personal hygiene products shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and D of § 58.1-638.*

B. ~~The provisions of this section shall not affect the imposition of tax on food purchased for human consumption and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606.~~

~~C. On and after January 1, 2023, and except for taxes imposed pursuant to §§ 58.1-605 and 58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under this chapter, on food purchased for human consumption or essential personal hygiene products.~~

*C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of § 58.1-638 based on the estimates of the population of cities and counties ages five to 19.*

D. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this chapter.

**6. That § 58.1-322.03 of the Code of Virginia is amended and reenacted as follows:**

**58.1-322.03. Virginia taxable income; deductions.**

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) ~~and~~; (ii) for taxable years beginning on and after January 1, 2019, but before January 1, ~~2026~~ 2022, \$4,500

for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and (iii) for taxable years beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified

higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.

9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced

oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans."

**7. That the provisions of the sixth enactment of this Act shall take effect for the 2022 tax year contingent on the Tax Department certifying annual revenue growth, adjusted for the impact tax policy changes, of at least five percent for the six month period of July 2022 through December 2022. If the five percent growth rate is not met for such six month period, the standard deduction for taxable year 2022 shall be \$7,500 for single individuals and \$15,000 for married persons.**

**8. That the provisions of the sixth enactment of this Act shall take effect for the 2023 tax year contingent on the Tax Department certifying annual revenue growth, adjusted for the impact tax policy changes, of at least five percent for the twelve month period of July 2022 through June 2023. If the five percent growth rate is not met for such twelve month period, the standard deduction for taxable year 2023 shall be \$7,500 for single individuals and \$15,000 for married persons.**

**9. That § 58.1-439.30 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.30. Virginia housing opportunity tax credit.**

*A. A Subject to the provisions of subsection H, a housing opportunity tax credit shall be allowed for each qualified project for each year of the credit period, in an amount equal up to the amount of federal low-income housing tax credit allocated or allowed by the Authority to such qualified project, except that there shall be no reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2). The credit shall be allowed ratably for each qualified project, with one-tenth of the credit amount allowed annually for 10*



*years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.*

B. 1. For taxable years beginning on and after January 1, 2021, but before January 1, 2026, a qualified taxpayer may claim a housing opportunity tax credit against its Virginia tax liability prior to reduction by any other credits allowed the taxpayer. The housing opportunity tax credit may be allocated by pass-through entities to some or all of its partners, members, or shareholders in any manner agreed to by such persons, regardless of whether or not any such person is allocated or allowed any portion of any federal low-income housing tax credit with respect to the qualified project, whether or not the allocation of the housing opportunity tax credit under the terms of the agreement has substantial economic effect within the meaning of § 704(b) of the Internal Revenue Code, and whether or not any such person is deemed a partner for federal income tax purposes as long as the partner or member would be considered a partner or member as defined under applicable state law, and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return, including any amendments thereto, with respect to the year of the housing opportunity tax credit. Such pass-through entities or qualified taxpayer may assign all or any part of its interest, including its interest in the tax credits, to one or more pass-through entities or qualified taxpayers, and the qualified taxpayer shall be able to claim the housing opportunity tax credit so long as its interest is acquired prior to the filing of its tax return claiming the housing opportunity tax credit.

*2. If a housing opportunity tax credit has been awarded according to the terms of subsection G prior to January 1, 2026, such credit may continue to be claimed on a return for taxable years on and after January 1, 2026, but only pursuant to the applicable credit period specified in § 58.1-439.29.*

C. The housing opportunity tax credit authorized by this article shall not be refundable. Any housing opportunity tax credit not used in a taxable year may be carried forward *by a qualified taxpayer* for the succeeding five years.

D. A qualified taxpayer claiming a housing opportunity tax credit shall submit a copy of the eligibility certificate at the time of filing its tax return with the Department. If the owner of the qualified project has applied to the Authority for the eligibility certificate but the Authority has not yet issued the eligibility certificate at the time the qualified taxpayer files its original tax return claiming the housing opportunity tax credit, the taxpayer may claim the housing opportunity tax credit based upon the amount of tax credit set forth in the ~~carryover allocation or 42(m) letter, as applicable,~~ *award letter issued by the Authority for the housing opportunity tax credit* issued to the qualified project and shall amend its tax return to include the eligibility certificate upon its receipt. If the amount of tax credit in the eligibility certificate is different than the amount of tax credit previously claimed, the taxpayer shall adjust the tax credit amount claimed on the amended tax return.

E. If under § 42 of the Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a qualified project is required to be recaptured or is otherwise disallowed during the credit period, the taxpayer claiming housing opportunity tax credits with respect to such project shall also be required to recapture a portion of any tax credits authorized by this article. The percentage of housing opportunity tax credits subject to recapture shall be equal to the percentage of federal low-income housing credits subject to recapture or otherwise disallowed during such period. Any tax credits recaptured or disallowed shall increase the income tax liability of the qualified taxpayer who claimed the tax credits in a like amount and shall be included on the tax return of the qualified taxpayer submitted for the taxable year in which the recapture or disallowance event is identified. *The balance of any tax credits recaptured or disallowed shall be allocated by the Authority for any qualified project in accordance with subsection G.*

F. The Authority shall administer the housing opportunity tax credit program and shall be authorized to promulgate the regulations and guidelines necessary to implement and administer ~~the provisions of~~ this article. Such regulations and guidelines may include the imposition of application, allocation, certification, and

monitoring fees designed to recoup the costs of the Authority in administering the housing opportunity tax credit program. The Authority may also promulgate regulations and guidelines in consultation with the Department to allow a qualified project to elect in its application to the Authority to sell all or any portion of its credits awarded pursuant to this article to one or more unrelated taxpayers. Regulations and guidelines regarding the sale of credits, if promulgated, shall not take effect prior to January 1, 2023, and shall not apply to credits awarded prior to January 1, 2023.

*G. 1. Any housing opportunity tax credit amounts authorized in a calendar year that are subsequently (i) canceled and returned to the Authority or (ii) recaptured or disallowed pursuant to subsection E may be awarded in the following calendar year, but no later than December 31, 2025. If the amount of housing opportunity tax credits authorized in a calendar year for qualified projects is less than the total amount of credits available for qualified projects under subdivision H 2, the balance of such credits, in an amount not greater than 15 percent of the amount of credits available for qualified projects under subdivision H 2, (a) shall be allocated by the Authority for any qualified project in the following calendar year, (b) shall not be allocated at any time after such following calendar year, and (c) shall be allocated no later than December 31, 2025.*

*2. Such housing opportunity tax credits issued pursuant to this subsection shall be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.*

*H. 1. The total amount of housing opportunity tax credits authorized for qualified projects under this article shall not exceed \$15 million per for calendar year 2021.*

*2. For calendar years 2022 through 2025, the total amount of housing opportunity tax credits authorized for qualified projects under this article shall not exceed \$60 million per calendar year. Such credits issued each calendar year shall be allowed ratably, with one-tenth of the total amount of credits allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 U.S.C. § 42(f)(2) and any reduction by reason of 26 U.S.C. § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.*

*3. Notwithstanding any other provision of law to the contrary, the aggregate amount of housing opportunity tax credits authorized for all qualified projects under this article shall not exceed \$255 million across all calendar years.*

**10. That, for the purposes of the ninth enactment of this act, notwithstanding any provision of law or regulation to the contrary, only Virginia housing opportunity tax credits awarded in calendar year 2021, up to a maximum of \$15 million total for all taxpayers in all taxable years, may be claimed pursuant to the provisions of § 58.1-439.30 of the Code of Virginia as set forth in Chapter 495 of the Acts of Assembly of 2021, Special Session I, prior to amendment by the ninth enactment of this act. Nothing in this enactment shall apply to § 58.1-439.30 of the Code of Virginia as amended by the sixth enactment of this act.**

**11. That, for the purposes of the ninth enactment of this act, the Virginia Housing Development Authority (the Authority) shall, upon request from the Chairs of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance and Appropriations, provide information, data, and any other requested advisement on the potential structure and cost of a separately authorized certificated Virginia housing opportunity tax credit program that would allow a qualified project to sell all or any portion of its Virginia housing opportunity tax credits, to one or more unrelated taxpayers based on findings in the report of the Department of Housing and Community Development and the Authority stakeholder advisory group submitted pursuant to Chapter 517 of the Acts of Assembly of 2020.**



12. That, for the purposes of the ninth enactment of this act, of the \$60 million of Virginia housing opportunity tax credits authorized per calendar year from 2022 through 2025 for qualified projects by the Virginia Housing Development Authority (the Authority) pursuant to Article 13.4 (§ 58.1-439.29 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia, as amended by the ninth enactment of this act, \$20 million of such credits shall be first allocated exclusively for qualified projects located in a locality with a population no greater than 35,000 as determined by the most recent United States census. Such allocation of Virginia housing opportunity tax credits shall constitute the minimum amount of such tax credits to be allocated for qualified projects in such localities. However, if the amount of such tax credits requested for qualified projects in such localities is less than the total amount of such credits available for qualified projects in such localities, the balance of such credits shall be allocated for any qualified project, regardless of location. In allocating or allowing such credits to qualified projects in such localities, the Authority shall give equal consideration to qualified projects allocated or allowed a federal low-income housing credit in an amount equal to the 10-year present value calculation of the percentages prescribed under 26 U.S.C. §§ 42(b)(1)(B)(i) and 42(b)(1)(B)(ii).

13. That §§ 18.2-325 and 18.2-334.6 of the Code of Virginia are amended and reenacted as follows:

**§ 18.2-325. Definitions.**

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

2. "Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be

deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; ~~merchandise; or anything of value or cash equivalents~~ whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services or the Charitable Gaming Board, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

#### **§ 18.2-334.6. Exemptions to article; amusement devices.**

A. As used in this section:

~~"Coin-operated amusement games" means games that do not deliver or entitle the person playing or operating the game to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; or merchandise or anything of value.~~

~~"Family entertainment center" means an establishment that (i) is located in a building that is owned, leased, or occupied by the establishment for the primary purpose of providing amusement and entertainment to the public; (ii) offers coin-operated amusement games and skill games pursuant to the exemption created by this section; and (iii) markets its business to families with children.~~

~~"Amusement device" means a game that is activated by a coin, token, or other object of consideration or value and that does not provide the opportunity to (i) enter into a sweepstakes, lottery, or other illegal gambling event or (ii) receive any form of consideration or value, except for an appropriate reward.~~

~~"Appropriate reward" means a noncash, merchandise prize (i) the value of which does not exceed the cost of playing the amusement device or the total aggregate cost of playing multiple amusement devices, (ii) that is not and does not include an alcoholic beverage, (iii) that is not eligible for repurchase, and (iv) that is not exchangeable for cash or cash equivalents.~~

B. ~~Notwithstanding the provisions of § 18.2-325,~~ A person operating a family entertainment center may make skill games amusement devices available for play if the prize won or distributed to a player is a noncash,

merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize (i) the value of which does not exceed the cost of playing the skill game or the total aggregate cost of playing multiple skill games; (ii) that is not and does not include an alcoholic beverage; (iii) that is not eligible for repurchase; and (iv) that is not exchangeable for cash, cash equivalents, or anything of value whatsoever an appropriate reward. An appropriate reward shall only be redeemable on the premises where the amusement device is located.

C. An amusement device shall not be designed or adapted to cause or enable a person to cause the release of free games or portions of games when designated as a potential reward for use of the device and shall not contain any meter or other measurement device to record the number of free games or portions of games that are rewarded.

D. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.

**14. That §§ 3.2-5145.5, 4.1-1100, 4.1-1101, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-5145.5. Regulations.**

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

B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.

C. The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract. *Such regulations shall require that any industrial hemp extract or food containing an industrial hemp extract that contains tetrahydrocannabinol be equipped with a label that states (i) that the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (iii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iv) the total percentage and milligrams of tetrahydrocannabinol included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of tetrahydrocannabinol that are contained in each serving.*

D. The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.

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

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

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

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

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

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

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

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

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

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

- 1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;*
- 2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;*
- 3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and*
- 4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years or a fine of not more than \$250,000, or both.*

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

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;
2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

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

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

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

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

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

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

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

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

#### **§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;

2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;

4. Misrepresenting geographic origin in connection with goods or services;

5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;

6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall

be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § [3.2-6509](#), [3.2-6512](#), [3.2-6513](#), [3.2-6513.1](#), [3.2-6514](#), [3.2-6515](#), [3.2-6516](#), or [3.2-6519](#) is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § [46.2-100](#);

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be



readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § [8.01-40.2](#);
38. Violating any provision of Article 7 (§ [32.1-212](#) et seq.) of Chapter 6 of Title 32.1;
39. Violating any provision of Chapter 34.1 (§ [59.1-441.1](#) et seq.);
40. Violating any provision of Chapter 20 (§ [6.2-2000](#) et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ [59.1-525](#) et seq.);
42. Violating any provision of Chapter 47 (§ [59.1-530](#) et seq.);
43. Violating any provision of § [59.1-443.2](#);
44. Violating any provision of Chapter 48 (§ [59.1-533](#) et seq.);
45. Violating any provision of Chapter 25 (§ [6.2-2500](#) et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § [54.1-1115](#);
47. Violating any provision of § [18.2-239](#);
48. Violating any provision of Chapter 26 (§ [59.1-336](#) et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ [59.1-518.1](#) et seq.);
51. Violating any provision of Chapter 22 (§ [6.2-2200](#) et seq.) of Title 6.2;
52. Violating any provision of § [8.2-317.1](#);
53. Violating subsection A of § [9.1-149.1](#);
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § [54.1-1118](#) while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § [44-146.16](#) or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ [54.1-1100](#) et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ [59.1-434.1](#) et seq.);
57. Violating any provision of § [18.2-178](#), [18.2-178.1](#), or [18.2-200.1](#);



58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126;
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
61. Violating any provision of § 2.2-2001.5;
62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
63. Violating any provision of § 6.2-312;
64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2; ~~and~~
66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
67. *Selling or offering for sale to a person younger than 21 years of age any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;*
68. *Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol concentration of the batch from which the substance originates. This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Article 4.2 of Chapter 34 of Title 54.1 of the Code of Virginia;*
69. *Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol that depicts or is in the shape of a human, animal, vehicle, or fruit; and*
70. *Selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.*

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by

reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

**15. That the Secretary of Agriculture and Forestry shall, in conjunction with the Secretary of Public Safety and Homeland Security and Secretary of Health and Human Resources, establish a task force to analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth. The task force shall focus on the current and recommended statutory and regulatory framework for the various isomers, salts, and salts of isomers of tetrahydrocannabinol. Such task force shall include representatives from the Department of Agriculture and Consumer Services, the Office of the Attorney General, the Department of Forensic Sciences, the Cannabis Control Authority, and other stakeholders as determined by the Secretary of Agriculture and Forestry. The Secretary of Agriculture and Forestry shall report the findings and recommendations of the task force to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 15, 2022.**

**16. That any person that sells or offers for sale an industrial hemp extract, as defined in § 3.2-5145.1 of the Code of Virginia, or a food containing an industrial hemp extract is subject to the provisions of Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia and regulations adopted pursuant thereto.**

**17. That § 58.1-322.02 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-322.02. Virginia taxable income; subtractions.**

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.
2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.
3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.
4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.
5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.
6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.
7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

*b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.*

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time. However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary. For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

30. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

**18. § 1. Programs offered to children who reside at a private school accredited by the Virginia Council for Private Education, which is located West of Sandy Ridge and on the watersheds of Big Sandy River, and to**



which no contributions are made by the Commonwealth or any agency thereof, shall not be required to obtain a licensure pursuant to Title 63.2 and Title 22.1 of the Code of Virginia. Such programs shall be subject to the safety and supervisory standards established for such school by the Virginia Council for Private Education.

19. That § 22.1-349.1 of the Code of Virginia is amended and reenacted as follows:

**§ 22.1-349.1. Definitions; objectives.**

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

"At-risk student" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board criteria, that research indicates may negatively influence educational success.

"College partnership laboratory school" means a public, nonsectarian, nonreligious school in the Commonwealth established by a public institution of higher education ~~or private institution of~~; *public higher education that operates a teacher education program approved by the Board center, institute, or authority; or an eligible institution as defined in § 23.1-628. Notwithstanding the provisions of § 22.1-349.5, a public institution of higher education; a public higher education center, institute, or authority; or an eligible institution as defined in § 23.1-628 may submit an application for formation of a college partnership laboratory school.*

"Governing board" means the board of a college partnership laboratory school that is responsible for creating, managing, and operating the college partnership laboratory school and whose members have been selected by the institution of higher education that establishes the college partnership laboratory school. The governing board shall be under the control of the institution of higher education that establishes the college partnership laboratory school.

B. College partnership laboratory schools may be established as provided in this chapter to (i) stimulate the development of innovative programs for preschool through grade 12 students; (ii) provide opportunities for innovative instruction and assessment; (iii) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management, and structure; (iv) encourage the use of performance-based educational programs; (v) establish high standards for both teachers and administrators; (vi) encourage greater collaboration between education providers from preschool to the postsecondary level; and (vii) develop models for replication in other public schools.

20. That the provisions of the fifth enactment of this Act shall apply beginning January 1, 2023.

21. That the provisions of the first enactment of this act shall expire at midnight on June 30, 2024.

22. That the provisions of the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth enactments of this act shall have no expiration date.

## Article 5. Industrial Hemp Extract Intended for Human Consumption

### § 3.2-5145.1. Definitions

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

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

"Industrial hemp extract" means an extract (i) of a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for hemp by federal law and (ii) that is intended for human consumption.

2020, cc. 659, 660.

### § 3.2-5145.2. Industrial hemp extract; approved food

An industrial hemp extract is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

2020, cc. 659, 660.

### § 3.2-5145.3. Manufacturer of industrial hemp extract or food containing an industrial hemp extract

A manufacturer of an industrial hemp extract or food containing an industrial hemp extract shall be an approved source if the manufacturer operates:

1. Under inspection by the responsible food regulatory agency in the location in which such manufacturing occurs; and
2. In compliance with the laws, regulations, or criteria that pertain to the manufacturer of industrial hemp extracts or food containing an industrial hemp extract in the location in which such manufacturing occurs.

2020, cc. 659, 660.

### § 3.2-5145.4. Industrial hemp extract requirements

A. An industrial hemp extract shall (i) be produced from industrial hemp grown in compliance with applicable law and (ii) notwithstanding any authority under federal law to have a greater concentration of tetrahydrocannabinol, have a tetrahydrocannabinol concentration of no greater than 0.3 percent.

B. In addition to the requirements of this chapter, an industrial hemp extract or food containing an industrial hemp extract shall comply with regulations adopted by the Board pursuant to § 3.2-5145.5.

2020, cc. 659, 660.



### **§ 3.2-5145.5. Regulations**

- A. The Board is authorized to adopt regulations for the efficient enforcement of this article.
- B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.
- C. The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract.
- D. The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.
- E. With the exception of § [2.2-4031](#), neither the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § [2.2-4014](#) shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

2020, cc. [659](#), [660](#).

## Article 5. Industrial Hemp Extract Intended for Human Consumption

### § 3.2-5145.1. Definitions

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

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

"Industrial hemp extract" means an extract (i) of a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for hemp by federal law and (ii) that is intended for human consumption.

2020, cc. 659, 660.

### § 3.2-5145.2. Industrial hemp extract; approved food

An industrial hemp extract is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.

2020, cc. 659, 660.

### § 3.2-5145.3. Manufacturer of industrial hemp extract or food containing an industrial hemp extract

A manufacturer of an industrial hemp extract or food containing an industrial hemp extract shall be an approved source if the manufacturer operates:

1. Under inspection by the responsible food regulatory agency in the location in which such manufacturing occurs; and
2. In compliance with the laws, regulations, or criteria that pertain to the manufacturer of industrial hemp extracts or food containing an industrial hemp extract in the location in which such manufacturing occurs.

2020, cc. 659, 660.

### § 3.2-5145.4. Industrial hemp extract requirements

A. An industrial hemp extract shall (i) be produced from industrial hemp grown in compliance with applicable law and (ii) notwithstanding any authority under federal law to have a greater concentration of tetrahydrocannabinol, have a tetrahydrocannabinol concentration of no greater than 0.3 percent.

B. In addition to the requirements of this chapter, an industrial hemp extract or food containing an industrial hemp extract shall comply with regulations adopted by the Board pursuant to § 3.2-5145.5.

2020, cc. 659, 660.

### **§ 3.2-5145.5. Regulations**

- A. The Board is authorized to adopt regulations for the efficient enforcement of this article.
- B. The Board shall adopt regulations identifying contaminants of an industrial hemp extract or a food containing an industrial hemp extract and establishing tolerances for such identified contaminants.
- C. The Board shall adopt regulations establishing labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract.
- D. The Board shall adopt regulations establishing batch testing requirements for industrial hemp extracts. The Board shall require that batch testing of industrial hemp extracts be conducted by an independent testing laboratory that meets criteria established by the Board.
- E. With the exception of § [2.2-4031](#), neither the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § [2.2-4014](#) shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

2020, cc. [659](#), [660](#).

**Project 6441**

**Department of Agriculture And Consumer Services**

**Promulgate regulation regarding industrial hemp extracts intended for human  
consumption as required**

Chapter 595

Regulations Governing the Manufacturing and Sale of Products that Contain Industrial Hemp  
Extracts Intended for Human Consumption

**2VAC5-595-10. Definitions.**

The following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

"Approved source" means a manufacturer of an industrial hemp extract or food containing an industrial hemp extract that operates (i) under inspection by the responsible food regulatory agency in the location in which such manufacturing occurs and (ii) in compliance with the laws, regulations, or criteria that pertain to the manufacturer of an industrial hemp extract or food containing an industrial hemp extract in the location in which such manufacturing occurs.

"Batch" means a specific quantity of an industrial hemp extract that is uniform and is produced during a specified period of time under similar conditions and identified by a specific code that allows traceability.

"Cannabinoid" means a naturally-occurring, biologically active, chemical constituent of Cannabis sativa [ , including cannabidiol (CBD), cannabidiolic acid (CBDA), delta-9-tetrahydrocannabinol (THC), and delta-9 tetrahydrocannabinolic acid (THCA) ] .

"Consumer" means a person who (i) purchases an industrial hemp extract or a food containing an industrial hemp extract for personal use, (ii) is not functioning in the capacity of an operator of

a food establishment or food processing plant, and (iii) does not offer the industrial hemp extract or food containing an industrial hemp extract for resale.

"Consumption" means oral ingestion.

"Contaminant" means any substance not intended to be an ingredient in a food and that is potentially harmful to the consumer.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Extract" means a naturally occurring phytochemical produced by the industrial hemp plant that has been removed from the inert structural material of the plant.

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

"Industrial hemp" means any part of the plant Cannabis sativa with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"Industrial hemp extract" means an extract (i) of a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for hemp by federal law and (ii) that is intended for human consumption.

"Manufacturer" means a person that (i) produces a packaged food or a food intended to be used as an ingredient in a food and (ii) offers the food for sale directly to consumers or for wholesale distribution. "Manufacturer" does not include a person that adds an industrial hemp extract to food for immediate consumption by consumers in a retail food establishment or at a farmers' market, if that person did not produce the industrial hemp extract.

"Phytochemical" means any naturally occurring chemical compound in a plant.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 of the Code of Virginia to process industrial hemp.

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

"Retail food establishment" means a food business regulated under and operating in compliance with the Retail Food Establishment Regulations (2VAC5-585) and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia.

"Retail sale" means the sale of a product directly to a consumer.

"Total delta-9 tetrahydrocannabinol concentration" means the post-decarboxylation delta-9 tetrahydrocannabinol concentration, which can be determined using the following equation [delta-9 tetrahydrocannabinol] + (0.877 x [tetrahydrocannabinolic acid]).

"Wholesale distribution" means the sale of a product to an intermediate entity that intends to further distribute that product for retail sale.

#### **2VAC5-595-20. Regulated articles.**

Industrial hemp extracts and foods containing an industrial hemp extract are subject to the provisions of this chapter.

#### **2VAC5-595-30. Inspection required.**

A. A person that manufactures an industrial hemp extract in Virginia and introduces that industrial hemp extract into commerce shall first be inspected by the department for compliance with the requirements in 2VAC5-595-50.

B. To apply for an inspection to manufacture an industrial hemp extract or to introduce an industrial hemp extract into commerce, a person must:

1. Submit an application on a form provided by the [ commissioner department ] ; and

2. Provide documentation of an unexpired Industrial Hemp Processor Registration issued pursuant to subsection A of § 3.2-4115 of the Code of Virginia.

**2VAC5-595-40. General requirements.**

A. A manufacturer shall produce an industrial hemp extract in compliance with Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia and Regulations Pertaining to Food for Human Consumption (2VAC5-600), including 21 CFR Part 117.

B. Notwithstanding subsection A of this section, a manufacturer shall produce an industrial hemp extract or food containing an industrial hemp extract in compliance with 21 CFR Part 111 if the industrial hemp extract or food containing an industrial hemp extract is:

1. Produced in a tablet, capsule, powder, softgel, or gel cap form;
2. Labeled with a panel titled "Supplement Facts"; or
3. Labeled with a statement that describes the role of a nutrient or ingredient intended to affect the structure or function in humans or that characterizes the documented mechanism by which a nutrient or ingredient acts to maintain such structure or function.

C. The manufacture or sale of food that contains an industrial hemp extract is not eligible for the exemption from inspection provided in § 3.2-5130 of the Code of Virginia.

D. A person offering for sale a food containing an industrial hemp extract shall obtain the industrial hemp extract from an approved source.

**2VAC5-595-50. Laboratory testing required for contaminants and phytochemicals of an industrial hemp extract or a food containing an industrial hemp extract.**

A. If an industrial hemp extract is used as an ingredient in a food and that industrial hemp extract was produced by a manufacturer that is an approved source pursuant to § 3.2-5145.3 of the Code of Virginia, that food containing an industrial hemp extract is not subject to the testing

requirements prescribed in this section. However, a food containing an industrial hemp extract that contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section is adulterated.

B. A manufacturer of an industrial hemp extract shall submit for laboratory analysis a sample from each batch of industrial hemp extract the manufacturer produces. Such laboratory analysis shall only be performed by a laboratory that meets the requirements prescribed in subsection E of this section.

C. A batch whose sample contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section is adulterated. A manufacturer of an industrial hemp extract may not offer for sale or sell any industrial hemp extract from a batch whose sample contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section.

D. A manufacturer of an industrial hemp extract may not offer for sale or sell any industrial hemp extract from a batch whose sample does not contain the cannabinoid or phytochemical concentration claimed on the label for the industrial hemp extract.

E. The laboratory analysis required in subsection B of this section shall be performed by a laboratory that:

1. Has no direct or indirect financial interest in a manufacturer of an industrial hemp extract or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of an industrial hemp extract or product containing an industrial hemp extract. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a manufacturer of an industrial hemp extract or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of an industrial hemp extract or product containing an industrial hemp extract.



2. Employs at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

F. The microbiological content in a sample from a batch of industrial hemp extract shall [ not exceed the following acceptable criteria: meet the standard for the microbiological test established in 18 VAC 110-60-300. ]

<u>[ Microbiological</u>	<u>Acceptable criteria</u>
<u>Total Aerobic Microbial Count</u>	<u>&lt; 1,000 cfu/g or cfu/ml</u>
<u>Total Combined Yeast and Mold Count</u>	<u>&lt; 100 cfu/g or cfu/ml</u>
<u>Escherichia coli</u>	<u>Absent in 1 g or 1 ml ]</u>

G. The mycotoxin content in a sample from a batch of industrial hemp extract shall [ not exceed the following acceptable criteria: meet the standard for the mycotoxin test established in 18 VAC 110-60-300. ]

<u>[ Mycotoxin</u>	<u>Acceptable criteria</u>
<u>Aflatoxin (total)</u>	<u>&lt; 20 ppb (20 ug/kg)</u>
<u>Ochratoxin A</u>	<u>&lt; 20 ppb (20 ug/kg) ]</u>

H. The heavy metal content in a sample from a batch of industrial hemp extract shall [ not exceed the following acceptable criteria: meet the standard for the heavy metal test established in 18 VAC 110-60-300. ]

<u>[ Heavy metal</u>	<u>Acceptable criteria</u>
<u>Arsenic</u>	<u>&lt; 10 ppm</u>
<u>Cadmium</u>	<u>&lt; 4.1 ppm</u>
<u>Lead</u>	<u>&lt; 10 ppm</u>

Mercury

< 2 ppm ]

I. The residual solvent content in a sample from a batch of industrial hemp extract shall not exceed the following acceptable criteria:

<u>Residual solvent</u>	<u>Acceptable criteria</u>
<u>1,2-Dichloroethene</u>	<u>5 ppm</u>
<u>1,1-Dichloroethene</u>	<u>8 ppm</u>
<u>Acetone</u>	<u>5,000 ppm</u>
<u>Acetonitrile</u>	<u>410 ppm</u>
<u>Benzene</u>	<u>2 ppm</u>
<u>Butane</u>	<u>2,000 ppm</u>
<u>Chloroform</u>	<u>60 ppm</u>
<u>Ethanol</u>	<u>5,000 ppm</u>
<u>Ethyl Acetate</u>	<u>5,000 ppm</u>
<u>Ethyl Ether</u>	<u>5,000 ppm</u>
<u>Ethylene Oxide</u>	<u>5 ppm</u>
<u>Heptane</u>	<u>5,000 ppm</u>
<u>Hexane</u>	<u>290 ppm</u>
<u>Isopropyl Alcohol</u>	<u>500 ppm</u>
<u>Methanol</u>	<u>3,000 ppm</u>
<u>Methylene Chloride</u>	<u>600 ppm</u>
<u>Pentane</u>	<u>5,000 ppm</u>
<u>Propane</u>	<u>2,100 ppm</u>
<u>Toluene</u>	<u>890 ppm</u>
<u>Trichloroethylene (1,1,2-Trichloroethene)</u>	<u>80 ppm</u>
<u>Xylenes, Total (ortho-, meta-, para-)</u>	<u>2,170 ppm</u>

J. Any pesticide applied to industrial hemp or during the processing of industrial hemp must be done so in accordance with the label of that pesticide and in compliance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia) and regulations adopted thereunder. For at least three years, the manufacturer of an industrial hemp extract shall maintain

pesticide application records for the industrial hemp from which it produces the industrial hemp extract.

K. The pesticide chemical residue content in a sample from a batch of industrial hemp extract shall [ not exceed the most stringent tolerance for a pesticide chemical residue in any food item as set forth by the U.S. Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food in 40 CFR Part 180, Subpart C meet the standard for the pesticide chemical residue test established in 18 VAC 110-60-300 ] . Pesticide chemical residue testing shall include testing for carbamates, organochlorines, and organophosphates.

L. The total delta-9 tetrahydrocannabinol concentration of a sample from a batch of industrial hemp extract shall not exceed 0.3%.

M. If a manufacturer labels an industrial hemp extract as having any amount of a cannabinoid, a sample from a batch of the industrial hemp extract shall be tested and shall have the claimed amount of the cannabinoid. If a manufacturer labels an industrial hemp extract as having any amount of phytochemical, including a terpene or flavonoid, a sample from a batch of the industrial hemp extract shall be tested and shall have the claimed amount of the phytochemical.

N. If batch testing of industrial hemp extracts from industrial hemp grown in a specific production field consistently shows that levels of contaminants do not exceed the limits established in this chapter, the frequency of batch testing by the manufacturer may be adjusted after consultation with the department. The manufacturer shall retain documentation of the reasoning for adjustment of batch testing frequency and the recommendation of the department and make such available to the department on request.

O. The manufacturer shall maintain industrial hemp extract testing records for at least three years.

**2VAC5-595-60. Labeling of industrial hemp extracts and foods containing an industrial hemp extract.**

A. For the purpose of this chapter, label or labeling includes the label on the packaging of an industrial hemp extract or food containing an industrial hemp extract as well as any brochure, advertisement, information on social media or on any website, or any other form of product marketing.

B. An industrial hemp extract or food containing an industrial hemp extract shall be labeled in accordance with 21 CFR Part 101 and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia.

C. Notwithstanding subsection B of this section, a manufacturer shall label an industrial hemp extract or food containing an industrial hemp extract in compliance with the labeling provisions for dietary supplements in 21 CFR Part 101 and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia if the industrial hemp extract or food containing an industrial hemp extract is:

1. Produced in a tablet, capsule, powder, softgel, or gel cap form;
2. Labeled with a panel titled "Supplement Facts"; or
3. Labeled with a statement that describes the role of a nutrient or ingredient intended to affect the structure or function in humans or that characterizes the documented mechanism by which a nutrient or ingredient acts to maintain such structure or function.

D. If a manufacturer labels an industrial hemp extract or food containing an industrial hemp extract as containing a specific cannabinoid or concentration thereof, the number of milligrams of [ each such ] cannabinoid must be declared on the product label. The manufacturer must make and maintain records verifying the declared amount of cannabinoid. Such records may include a recipes, formulation, or batch record.

E. The label of an industrial hemp extract or food containing an industrial hemp extract shall not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease, which shall render the product a drug, as that term is defined in 21 USC § 321(g)(1). An industrial hemp extract or food containing an industrial hemp extract with a label that contains a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease is not a food and shall be considered misbranded.

F. A manufacturer shall identify each batch of an industrial hemp extract or a food containing an industrial hemp extract with a unique code for traceability. Julian date coding or any other system developed and documented by the manufacturer for assigning a unique code to a batch may be used. The batch identification shall appear and be legible on the industrial hemp extract label.

G. [ The label of an industrial hemp extract or a food containing an industrial hemp extract shall include a statement that the product contains a total delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% or shall state the specific total delta-9 tetrahydrocannabinol concentration of the product that contains tetrahydrocannabinol or a food containing an industrial hemp extract that contains tetrahydrocannabinol must be equipped with a label that states:

1. That the industrial hemp extract or food containing an industrial hemp extract contains tetrahydrocannabinol and may not be sold to a person younger than 21 years of age;

2. All ingredients contained in the industrial hemp extract or food containing an industrial hemp extract;

3. The amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving; and

4. The total percentage and milligrams of tetrahydrocannabinol included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of tetrahydrocannabinol that are contained in each serving ] .

FORMS (2VAC5-595)

[Application for Manufacturer of an Industrial Hemp-Derived Extract Intended for Human Consumption, ODF-FSP-10595 \(eff. 12/2020\)](#)

**Project 7308 - Exempt Final**

**Department of Agriculture And Consumer Services**

**Expand quarantine to include certain counties and cities in the northern and western  
regions of Virginia**

**2VAC5-336-50. Regulated areas.**

The following areas in Virginia are quarantined for Spotted Lanternfly:

1. The entire following counties:

a. Albemarle;

b. Augusta;

c. Carroll;

d. Clarke;

b-e. Frederick; and

e-f. Page;

g. Prince William;

h. Rockbridge;

i. Rockingham;

j. Shenandoah;

k. Warren; and

l. Wythe.

2. The entire ~~City of~~ following cities of:

a. Buena Vista;

b. Charlottesville;

c. Harrisonburg;

d. Lexington;

e. Lynchburg;

f. Manassas;

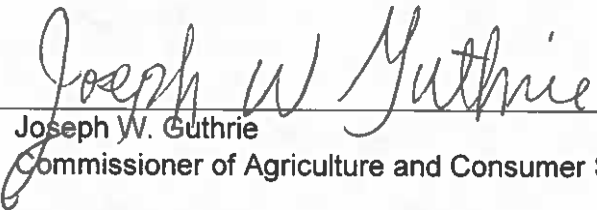
g. Manassas Park;

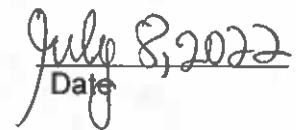
h. Staunton;

i. Waynesboro; and

j. 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*.

  
\_\_\_\_\_  
Joseph W. Guthrie  
Commissioner of Agriculture and Consumer Services

  
\_\_\_\_\_  
Date



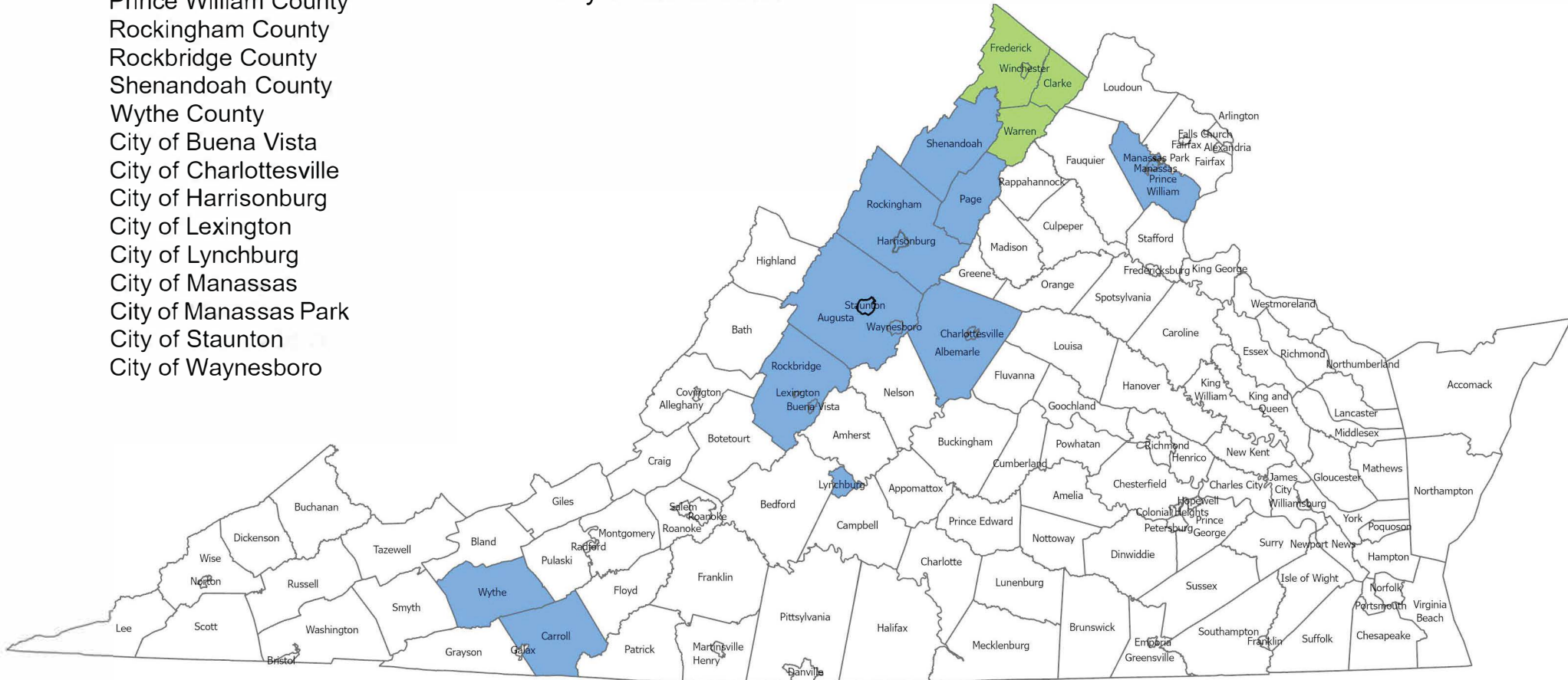
# Spotted Lanternfly Quarantine

**Expanded Localities** - ■

**Current Quarantine** - ■

- Albemarle County
- Augusta County
- Carroll County
- Page County
- Prince William County
- Rockingham County
- Rockbridge County
- Shenandoah County
- Wythe County
- City of Buena Vista
- City of Charlottesville
- City of Harrisonburg
- City of Lexington
- City of Lynchburg
- City of Manassas
- City of Manassas Park
- City of Staunton
- City of Waynesboro

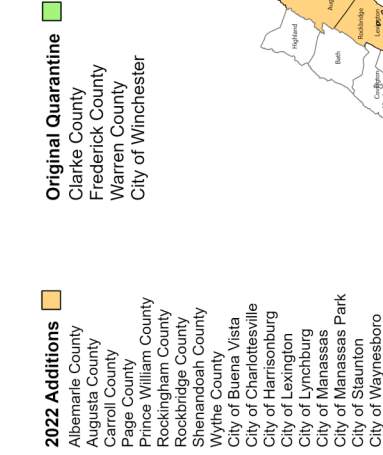
- Clarke County
- Frederick County
- Warren County
- City of Winchester



## Spotted Lanternfly (SLF): The Threat

- ◆ SLF is an exotic insect with no natural enemies present in the US. Their numbers can become very high, very quickly.
- ◆ SLF prefers Tree of Heaven but will feed on over 100 other plants including apple, peach and cherry trees, grape vines and more.
- ◆ SLF feeding can decrease grape harvest by 75-90%.
- ◆ SLF can be a nuisance to homeowners due to honeydew and sooty mold production.
- ◆ Small trees can die and large trees will lose tips from heavy feeding.

### Spotted Lanternfly Quarantine



[https://www.vdacs.virginia.gov/  
plant-industry-services.shtml](https://www.vdacs.virginia.gov/plant-industry-services.shtml)

P. O Box 1163  
Richmond, VA 23218  
804-920-5558 or 804-786-3515  
spottedlanternfly@vdacs.virginia.gov

[www.stopslf.org](http://www.stopslf.org)

Revised July 2022





## The Quarantine

In May of 2019, the Virginia Department of Agriculture and Consumer Services (VDACS) enacted a quarantine for Spotted Lanternfly (SLF). Before moving regulated items out of the quarantined area they must be free of SLF.

## Regulated articles

**Regulated Articles include but are not limited to:**

- Any life stage of Spotted Lanternfly,
- All plant parts living and dead,
- Outdoor industrial and construction material, landscaping and remodeling waste,
- Packing materials, crates and pallets,
- Outdoor household articles,
- Conveyances of any type, cars, trucks, ATVs, boats and trailers.

**Essentially anything that has been outside.**

## Moving Regulated Articles

### Who needs a permit

A permit to allow businesses to conduct self inspections can be obtained through VDACS.

### How to get a permit

This is a train the trainer program. A company representative takes an on-line training through Virginia Tech.

Once successfully completed, the trained staff will receive a Training Credential. By submitting the Training Credential and a SLF permit application to [spottedlanternfly@vdacs.virginia.gov](mailto:spottedlanternfly@vdacs.virginia.gov), the business will receive a permit.

The trained staff person trains other employees as inspectors.

A link to the training and the permit application can be found at: <https://www.vdacs.virginia.gov/plant-industry-services.shtml>

## Best Management Practices

- Kill any life stage of SLF found.
- Before moving regulated items, inspect for and kill SLF when found.
- Manage *Ailanthus altissima*, Tree of Heaven, SLF's favorite host. Remove 90% of all Tree of Heaven on your property using a herbicide and treat the remaining 10% with an insecticide.
- Keep windows and doors shut and do not park near trees or shrubs.
- Do not store items under or near trees or shrubs.

**Virginia Permits and Inspection Statements will be honored by other states and VDACS will honor other state permits.**

## How To Identify Spotted Lanternfly

**There is one generation a year. Egg masses over winter.**

**EARLY INSTAR NYMPHS: May– June**

Dark blue with white spots,  
Small, up to 3/8 inches



**FOURTH INSTAR NYMPH: June to Sept.**

Bright red with white spots



**ADULTS: July to first hard frost**

About an inch long and 1/2 wide



Adults start laying eggs in Sept.



**EGG MASSES: Mid-Sept.—May**

Shiny Grey to dull grey brown  
Hard to the touch



Egg mass on bark

**BOARD OF AGRICULTURE AND CONSUMER SERVICES**  
**Future Meeting Dates**

**MARK YOUR CALENDARS**

**Friday, December 9, 2022**

Patrick Henry Building  
East Reading Room  
1111 East Broad Street  
Richmond, VA

**Thursday, March 23, 2023**

Patrick Henry Building  
East Reading Room  
1111 East Broad Street  
Richmond, VA

**Thursday, May 18, 2023**

Patrick Henry Building  
East Reading Room  
1111 East Broad Street  
Richmond, VA





# 2022 CENSUS OF AGRICULTURE



**COMING THIS NOVEMBER.**

[nass.usda.gov/AgCensus](https://nass.usda.gov/AgCensus)

**YOUR VOICE. YOUR FUTURE. YOUR OPPORTUNITY.**



United States Department of Agriculture  
National Agricultural Statistics Service

#AgCensus





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**USDA, NASS, Virginia Field Office**  
Herman Ellison, State Statistician  
601 W Broadway, Rm 645  
Louisville, Kentucky 40201-1120  
(502) 907-3250 or 1-800-928-5277  
**Email:** nassrfoemr@nass.usda.gov

**In Cooperation with:**  
Virginia Department of Agriculture  
and Consumer Services  
Joseph W. Guthrie, Commissioner

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RELEASED: July 12, 2022

## Virginia Winter Wheat Production Forecast up 35% from 2021

**Virginia** farmers expect to harvest 10.9 million bushels of **winter wheat** during 2022 according to the Virginia Field Office of USDA's National Agricultural Statistics Service. The expected crop for 2022 would be up 35% from the previous year. The forecast was based on crop conditions as of July 1 and increased 13% from the June forecast. Growers expect a yield of 64.0 bushels per acre, down 3.0 bushels from 2021 and unchanged bushels from June. Farmers seeded 250,000 acres last fall with 170,000 acres to be harvested for grain. Acres for other uses totaled 80,000 acres and will be used as cover crop for tobacco or cut as silage or hay.

**Winter wheat** production for the **Nation** was forecast at 1.20 billion bushels, up 2% from the June 1 forecast and down 6 % from 2021. Based on July 1 conditions, the United States yield is forecast at 48.0 bushels per acre, down 0.2 bushels from last month and down 2.2 bushels from last year. The expected area to be harvested for grain or seed totals 25.0 million acres, down 2% from last year.

**Barley** producers in **Virginia** forecast harvesting 858 thousand bushels for 2022, up 63% from last year. Acres expected to be harvested for grain total 11,000 acres, 4,000 above last year. Producers expect a yield of 78.0 bushels per acre, up 3.0 bushels from 2021. **U. S.** production is expected to total 175 million bushels. Acres harvested is forecast at 2.40 million acres, up 23% from last year. Growers nationwide anticipate a yield of 73.0 bushels per acre, increased 12.6 bushels from 2022.

**Flue-cured tobacco** production in **Virginia** is forecast at 29.4 million pounds, 12% lower than the 33.4 million pounds produced in 2021. Acres for harvest are estimated at 14,000, down 500 acres from the 14,500 acres harvested last year. Yield per acre is forecast at 2,100 pounds, down 200 pounds from last year. **U. S.** production is forecast at 279 million pounds down 11% from 2021. Acres harvested is estimated at 152,000 acres, up 1.3% from last year. Yield per acre is forecast at 1,833 pounds, down 255 pounds from the previous year.