1974

REVISION OF TITLE 18.1 OF THE CODE OF VIRGINIA

REPORT OF THE

VIRGINIA CODE COMMISSION

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA

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Department of Purchases and Supply
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REVISION OF TITLE 18.1 OF THE CODE OF VIRGINIA

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Richmond, Virginia
November 27, 1973

To: HONORABLE LINWOOD HOLTON, *Governor of Virginia*
and
THE GENERAL ASSEMBLY OF VIRGINIA

The General Assembly at its Special Session of 1971 directed the Virginia Code Commission, by House Joint Resolution No. 41, to make a study of certain matters, including the criminal laws of the State.

That portion of the Resolution relating to such laws directs the Commission to "make a thorough study of the criminal laws of the State and make recommendations for the review and recodification of all statutes of the State relating to crime and criminal procedure. Such review shall include determining whether sections should be deleted or added to the Code, whether changes in the penalty provisions should be made and such other relative changes as the Commission deems appropriate."

Honorable M. Ray Doubles, Retired Judge of the Hustings Court of the City of Richmond, Part Two, was retained as Counsel to assist in the revision of Title 18.1, relating to crimes and offenses generally.

The Commission has met with Counsel on numerous occasions and each section of Title 18.1 has been carefully considered, as well as numerous sections from other titles. As a result, many sections, and several articles, have been rewritten entirely and minor changes have been made in the language of many others to eliminate uncertainty, needless repetition and excess verbiage. Recent decisions of the Supreme Court of the United States have necessitated some redrafting to eliminate unconstitutional provisions in several of the present statutes.

It is common knowledge, of course, that criminal offenses are scattered throughout the fifty titles of the Code. The vast majority of those outside Title 18.1 create offenses mala prohibita and provide punishment for violation of purely regulatory matters falling within the purview of various administrative agencies. However, there are many offenses malum in se found in these other titles, some of which more appropriately belong in Title 18.1, and as a result of the research of Counsel, a goodly number are being transferred into proposed Title 18.2.

A study by Counsel of the recent revision of the criminal codes of the federal government and of several states has produced a few recommended changes in format but not of substance.

Duplication of offenses has been found in many instances and this has been eliminated either by deletion of one of the sections or by combining the two sections if one is more comprehensive than the other.

Wherever feasible, sections have been deleted which merely specify the punishment for an offense defined in a previous section, and the punishment provision is moved to the section defining the offense.

A few new chapter headings have been created and a realignment of various sections which seem out of context in present Title 18.1 has been accomplished.

Special comment on some of the more important changes are included in the body of this Report, and lesser important changes are noted in the notes following many of the sections of proposed Title 18.2 attached to this Report.

Designation of Punishment

One innovation in proposed Title 18.2 is to classify felonies, for the purpose of punishment, into six classes and misdemeanors into four classes. (See §§ 18.2-9 and 18.2-10.)

Several desirable results will be achieved by this change. Needless repetition of spelling out the punishment for every offense in every section will be eliminated; unduly wide spreads between the minimum and maximum penalty for a given offense will be eliminated; offenses may be thought of as belonging to a particular degree of severity from a comparative point of view; and future legislation creating new offenses can be placed neatly into an existing class. Most states which have revised their criminal codes recently are using this classification device, and, of course, the federal criminal code uses it.

In Title 18.1 alone there are prescribed thirty-five different felony punishments and innumerable misdemeanor punishments. In many instances the punishment spread is too wide for a given offense, and in a few instances the range is almost ludicrous (e.g. three years imprisonment to death, § 18.1-38; five years imprisonment to death, § 18.1-44; a fine in any amount less than one thousand dollars to thirty years imprisonment, § 18.1-89; and a score of instances providing for a fine of less than one thousand dollars to twenty years imprisonment). The anomaly presented in these latter instances is that the possible minimum penalty is too small for the severe nature of the offense. In addition, it can be argued that the reasoning in the case of Furman v. Georgia, to be discussed later in this Report, is applicable to render the maximum punishment provision in such offenses unconstitutional.

It is the opinion of the Commission that the classification device is a marked improvement and its use should be extended throughout the remaining titles in the Code. Meanwhile, §§ 18.2-13 and 18.2-14 preserve the punishment provisions in other titles of the Code.

Capital Punishment

On June 19, 1972, the Supreme Court of the United States rendered its decision in the case of Furman v. Georgia, 92 S. Ct. 2726. In a five-to-four decision, the infliction of the death penalty under a Georgia statute was held invalid. However, there were nine separate opinions rendered, and it seems clear that six members of the Court (maybe seven) are of opinion that if the death penalty is the sole punishment for a given offense, such a statute would be constitutional. Mr. Chief Justice Burger, in his dissenting opinion, probably has pointed up the problem for legislative bodies, state and federal, in the following words:

> "While I would not undertake to make a definitive statement, as to the parameters of the Court's ruling, it is clear that if state legislatures and the Congress wish to maintain the availability of capital punishment, significant statutory changes will have to be made. Since the two pivotal concurring opinions turn on the assumption that the punishment of death is now meted out in a random and unpredictable manner, legislative bodies may seek to bring their laws into compliance with the Court's ruling by providing standards for juries and judges to follow in determining the sentence in capital cases or by more narrowly defining the crimes for which the penalty is to be imposed." (92 S. Ct. 2809)

The Commission in submitting proposed Title 18.2 has eliminated the death penalty from the following offenses and has designated the penalty at twenty years to life imprisonment (a class 2 felony):

Certain types of first degree murder, § 18.2-32

Abduction, § 18.2-48

Robbery, § 18.2-58

Less aggravated rape, § 18.2-62

Arson, § 18.2-77

Armed burglary, §§ 18.2-89 and 18.2-93

Use of machine gun in crime of violence, § 18.2-289

Use of sawed-off shotgun in crime of violence, § 18.2-300

and has designated a penalty of five to twenty years for

Attempted rape, § 18.2-25

and has retained the death penalty as the sole punishment for the following:

Murder by extreme torture, starving, or in the commission of, or attempt to commit rape or abduction, § 18.2-31

Homicides by convicts, § 18.2-31

Aggravated rape, § 18.2-61

Treason, § 18.2-481.

It should be pointed out that in a prosecution for a capital offense where the sole penalty is death, this will not necessarily mean conviction with the death penalty or acquittal. The jury will be instructed and be at liberty to convict the accused of any lesser noncapital degree of the offense or of a noncapital offense included in the alleged acts of the accused.

Rape

There is little question that the punishment provisions of § 18.1-44 of the present law are unconstitutional under the decision of Furman v. Georgia referred to under Capital Punishment in this Report.

In addition, due to the increase in knowledge in sex matters by females under the age of sixteen, the age of sixteen as the age of lawful consent to sexual intercourse is out of date, and the Commission's proposals in this respect fix the age at fifteen. Regarding carnal knowledge of inmates of mental institutions, the practice of furlough of females, who, to all outward appearances and manifestations, are in complete control of their volition, places an unwarranted liability on an accused who has no reason to believe that the female is an inmate of such an institution.

With such matters as the foregoing in mind, the entire subject matter of carnal knowledge of females has been rewritten.

Forcible rape has been divided into two categories: (1) capital rape for aggravated situations, punishable solely by death, § 18.2-61; and (2) other forcible rape for less aggravated situations, with punishment of twenty years to life imprisonment, § 18.2-62.

The age of consent in cases of nonforcible carnal knowledge of a female is fixed at fifteen years, with varying punishments where the female is under fifteen dependent upon varying circumstances, § 18.2-63.

Punishment for carnal knowledge of an inmate of a mental institution or of an institution for deaf, dumb, blind, mentally ill, mentally retarded, feeble-minded or epileptic persons, is made dependent upon whether the accused knows, or has good reason to believe, that the female is such an inmate, § 18.2-64.

Gambling

The body of law dealing with gambling, §§ 18.1-314 through 18.1-343, has been completely revised, not in the sense that the substance has been altered, but the format has been updated.

The existing body of law consists of a series of special acts of the General Assembly passed at various times to meet different exigencies as they arose from time to time. The result is a hodge-podge of overlapping and needless repetition.

The new article in Title 18.2, comprising §§ 18.2-325 through 18.2-340, is designed to cover illegal gambling in whatever form it may exist or arise in the future, thus making special legislation unnecessary to meet a particular new type of gambling.

The source notes following each section of proposed Title 18.2 indicate the section or sections of the present law upon which the new legislation is based.

Abortion

In view of the 1973 decision of the Supreme Court of the United States in Roe v. Wade, 93 S. Ct. 705, in which it is held that during the first trimester of pregnancy "the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that in his medical judgment, the patient's pregnancy should be terminated.", it has been necessary to amend the abortion law to save its constitutionality. See §§ 18.2-72 and 18.2-73.

Deleted Sections

The following sections of Title 18.1 have been deleted and no counterpart is found in Title 18.2 except as noted.

18.1-81.1 Possession or manufacture of explosive devices or substances in the vicinity of a structure, without a permit, as prima facie evidence of intent to destroy it.

Commission Note: Believed to be unnecessary.

18.1-175 Cutting or removing timber from Blue Ridge Parkway.

Commission Note: The State Highway Department advises that this section is no longer necessary.

18.1-245 Promoting or conducting marathon or endurance contests.

Commission Note: Believed to be unnecessary.

18.1-254.12 Authority of counties, cities and towns to adopt ordinances paralleling state law regarding riots and unlawful assemblies.

Commission Note: Authority for localities to parallel state law regarding disorderly conduct is reserved to them in § 18.2-415, which is believed to be adequate. Many of the state statutes regarding riot and unlawful assembly carry a felony punishment which localities could not parallel anyway.

18.1-283 Lobbying with the General Assembly.

Commission Note: This topic is adequately covered in the more recent and more comprehensive legislation contained in Chapter 2.1 of Title 30 (§§ 30-28.1 through 30-28.11).

18.1-314 Laws for suppressing gambling to be construed as remedial.

Commission Note: Believed to be unnecessary.

18.1-315 An attorney's fee of $10.00 to be taxed in cases of conviction of gambling.

Commission Note: Believed to be inappropriate.

18.1-348 A cautionary section which excluded operation of an old article from superseding another section.

Commission Note: Unnecessary in the revision.

18.1-349 Minors prohibited from frequenting poolrooms; with many exceptions.

Commission Note: Believed to be inappropriate.

18.1-360 What transportation by railroads prohibited on Sunday; numerous exceptions.

Commission Note: Believed to be unnecessary.

18.1-361 Meaning of the word "Sunday" in § 18.1-360.

18.1-362 Penalty for violation of § 18.1-360.

18.1-363 Prohibition against loading or unloading of steamships on Sunday; numerous exceptions.

Commission Note: Believed to be unnecessary.

18.1-372 through 18.1-379 Soliciting or spending funds for litigation by persons or associations who are not parties thereto or who do not have a pecuniary right or liability therein; registration with the State Corporation Commission.

Commission Note: This article is of doubtful constitutionality; there have been only a handful of registrations with the State Corporation Commission; the article on Barratry, §§ 18.2-451 through 18.2-455, is believed to adequately cover the matter; and this article is believed to be unnecessary.

18.1-380 through 18.1-387 Registration with the State Corporation Commission required of persons and associations who promote or oppose the passage of legislation by the General Assembly on behalf of any race or color, or whose activities advocate racial integration or segregation.

Commission Note: This article is of doubtful constitutionality and is believed to be unnecessary.

18.1-394 through 18.1-400 Prohibits any person not a party in interest to give or receive money or assistance in proceedings brought against the State or any agency or political subdivision thereof.

Commission Note: This article was held to be unconstitutional in NAACP v. Harrison, 202 Va. 142.

18.1-413 Unlawful for gypsies to receive compensation for fortune telling.

Commission Note: Believed to be unnecessary.

18.1-417 Unlawful for master of a vessel to import from outside the United States a convict.

Commission Note: Believed to be unnecessary.

CONCLUSION

Attached to and included in this Report are the following:

Table of Contents to Title 18.2

Table of Comparative Sections

Bill to repeal Title 18.1 and enact Title 18.2 in lieu thereof.

The Table of Comparative Sections is given for the purpose of tracing each section of the present law into its counterpart in Title 18.2. Certain words appearing in this Table have the following meanings, respectively. "Repealed" means that the section has been repealed by a previous act of the General Assembly. "Reserved" means that the particular Title 18.1 section number never was used. "Deleted" means that the provisions of the section are not being reenacted in Title 18.2. "In" means that although the section as such is not being reenacted in Title 18.2, the substance thereof has been incorporated into the indicated section of Title 18.2 or is adequately included therein.

Following each section of proposed Title 18.2 there appears a Source Note to show what section of the present law it is based upon, together with an explanatory note where that is deemed appropriate.

We express our appreciation to Judge M. Ray Doubles for the cooperation and assistance which he gave the Commission in the preparation of this Revision, and for the very considerable amount of time and effort which he expended in producing the tentative and final drafts of Title 18.2. We were fortunate to have the benefit of his knowledge of criminal law and of the Virginia statutes relating to such law.

RECOMMENDATION

The Virginia Code Commission submits this Report, and recommends that the General Assembly enact the attached bill in 1974.

Respectfully submitted,

* A. L. Philpott, *Chairman*
J. Harry Michael, Jr., *Vice Chairman*
John A. Banks, Jr.
Russell M. Carneal
Frederick T. Gray
John Wingo Knowles

*Statement of Partial Dissent by A. L. Philpott

Section 18.2-31 defines capital murder, and fixes the punishment for conviction thereof as death. I object to the inclusion in this section of murder in the commission of, or attempt to commit, abduction as defined in § 18.2-48, which is abduction with the intent to extort money or for immoral purposes. Such murder should be classified as murder of the first degree, which is punishable by imprisonment for life or for any term not less than twenty years.

Section 18.2-61 defines capital rape, and fixes the punishment for conviction thereof as death. I object to the inclusion in this section of rape accompanied by use of a deadly weapon or by a threat to use such weapon

accompanied by a display thereof, and of carnally knowing a female child under seven years of age. The punishment for such offenses should be imprisonment for life or for any term not less than twenty years.

Otherwise, I concur in the Report and the proposed bill.

TABLE OF CONTENTS
TITLE 18.2
CRIMES AND OFFENSES GENERALLY

CHAPTER 1

IN GENERAL

CHAPTER 2

PRINCIPALS AND ACCESSORIES

CHAPTER 3

INCHOATE OFFENSES

CHAPTER 4

CRIMES AGAINST THE PERSON

CHAPTER 5

CRIMES AGAINST PROPERTY

CHAPTER 6

CRIMES INVOLVING FRAUD

CHAPTER 7

CRIMES INVOLVING HEALTH AND SAFETY

CHAPTER 8

CRIMES INVOLVING MORALS AND DECENCY

CHAPTER 9

CRIMES AGAINST PEACE AND ORDER

CHAPTER 10

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

CHAPTER 11

OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE

CHAPTER 12

MISCELLANEOUS

TABLE OF COMPARATIVE SECTIONS

SHOWING SECTIONS OF TITLE 18.1 AS THEY APPEAR IN

THIS REPORT

TITLE 18.1	THIS REPORT	TITLE 18.1	THIS REPORT
18.1-1	18.2-1	18.1-37	18.2-47
18.1-2	18.2-2	18.1-38	18.2-48
18.1-3	18.2-3	18.1-39	18.2-49
18.1-4	18.2-4	18.1-40	18.2-50
18.1-5	18.2-5 and 18.2-6	18.1-41	18.2-68
		18.1-42	18.2-69
18.1-6	18.2-8	18.1-43	18.2-70
18.1-7	18.2-7	18.1-44	18.2-61, 18.2-62 18.2-63 and 18.2-64
18.1-8	18.2-16		
18.1-9	18.2-12	18.1-45	18.2-66
18.1-10	18.2-17	18.1-46	18.2-65
18.1-11	18.2-18 and 18.2-19	18.1-47	18.2-67
		18.1-48	18.2-274
18.1-12	18.2-19	18.1-49	18.2-275
18.1-13	18.2-21	18.1-50	18.2-275
18.1-14	18.2-371	18.1-51	18.2-276
18.1-15	Repealed	18.1-52	18.2-277
18.1-15.1	18.2-23	18.1-53	18.2-278
18.1-15.2	Repealed	18.1-54	18.2-266
18.1-15.3	18.2-22	18.1-54.1	18.2-267
18.1-16	18.2-25	18.1-55	Repealed
18.1-17	18.2-26	18.1-55.1	18.2-268
18.1-18	18.2-26	18.1-56	Repealed
18.1-19	18.2-27	18.1-56.1	Repealed
18.1-20	18.2-28	18.1-57	18.2-269
18.1-21	18.2-31 and 18.2-32	18.1-58	18.2-270
		18.1-59	18.2-271
18.1-22	18.2-32	18.1-60	18.2-272
18.1-23	18.2-32	18.1-61	18.2-273
18.1-24	18.2-35	18.1-62	18.2-71
18.1-25	18.2-36	18.1-62.1	18.2-73
18.1-26	18.2-37	18.1-62.2	18.2-74
18.1-27	18.2-38	18.1-62.3	18.2-75
18.1-28	18.2-39	18.1-63	18.2-76
18.1-29	18.2-40	18.1-64	18.2-54.1
18.1-30	18.2-41	18.1-65	18.2-51
18.1-31	18.2-42	18.1-66	18.2-279
18.1-32	18.2-43	18.1-67	18.2-52
18.1-33	18.2-44	18.1-68	18.2-53
18.1-34	18.2-45	18.1-69	18.2-280
18.1-35	18.2-46	18.1-69.1	18.2-281
18.1-36	18.2-47	18.1-69.2	18.2-282

TITLE 18.1	THIS REPORT
18.1-70	18.2-312
18.1-70.1	18.2-264
18.1-71	18.2-56
18.1-72	18.2-313
18.1-73	18.2-316
18.1-74	18.2-317
18.1-74.1	18.2-318
18.1-74.1:1	18.2-499
18.1-74.1:2	18.2-500
18.1-74.1:3	18.2-501
18.1-74.2	18.2-314
18.1-75	18.2-77
18.1-76	In 18.2-80
18.1-77	18.2-78
18.1-78	18.2-79
18.1-78.1	18.2-83
18.1-78.2	18.2-83
18.1-78.3	18.2-83
18.1-78.4	18.2-83
18.1-78.5	18.2-84
18.1-78.6	18.2-85
18.1-79	18.2-81
18.1-80	18.2-80
18.1-80.1	18.2-82
18.1-81	18.2-80
18.1-81.1	Deleted
18.1-82	18.2-86
18.1-83	18.2-87
18.1-84	18.2-88
18.1-85	18.2-80 and 18.2-81
18.1-86	18.2-89
18.1-87	18.2-94
18.1-88	18.2-90
18.1-88.1	18.2-92
18.1-89	18.2-91
18.1-90	18.2-93
18.1-91	18.2-58
18.1-92	18.2-168
18.1-93	18.2-169
18.1-94	18.2-170
18.1-95	18.2-171
18.1-96	18.2-172
18.1-97	18.2-173
18.1-98	18.2-207
18.1-99	18.2-208
18.1-100	18.2-95
18.1-101	18.2-96
18.1-102	18.2-97
18.1-103	In 18.2-110
18.1-104	18.2-98
18.1-105	18.2-98
18.1-106	18.2-99
18.1-107	18.2-108
18.1-107.1	18.2-110
18.1-108	18.2-101
18.1-109	18.2-111
18.1-110	18.2-112
18.1-111	18.2-113
18.1-112	18.2-114
18.1-113	18.2-200
18.1-114	18.2-201
18.1-115	18.2-100
18.1-116	18.2-115
18.1-117	18.2-116
18.1-117.1	18.2-118
18.1-118	18.2-178
18.1-119	18.2-186
18.1-119.1	Repealed
18.1-119.1:1	18.2-187
18.1-119.2	18.2-202
18.1-119.3	18.2-203
18.1-120	18.2-188
18.1-121	18.2-189
18.1-122	18.2-204
18.1-123	18.2-205
18.1-124	18.2-179
18.1-125	18.2-180
18.1-125.1	18.2-152
18.1-125.2	18.2-191
18.1-125.3	18.2-192
18.1-125.4	18.2-193
18.1-125.5	18.2-194
18.1-125.6	18.2-195
18.1-125.7	18.2-196
18.1-125.8	18.2-197
18.1-125.9	18.2-198
18.1-125.10	18.2-199
18.1-126	18.2-103
18.1-126.1	18.2-104
18.1-127	18.2-105
18.1-128	18.2-106
18.1-129 through 18.1-146.1	Repealed
18.1-147	18.2-153
18.1-148	18.2-159
18.1-149	18.2-161
18.1-150	18.2-160
18.1-151	18.2-156

TITLE 18.1	THIS REPORT	TITLE 18.1	THIS REPORT
18.1-152	18.2-154 and 18.2-279	18.1-195	18.2-347
		18.1-196	18.2-347
18.1-153	18.2-155	18.1-197	18.2-348
18.1-154	18.2-158	18.1-198	18.2-349
18.1-155	18.2-157	18.1-199	18.2-350
18.1-156	18.2-164	18.1-200	18.2-351
18.1-157	18.2-165	18.1-200.1	Repealed
18.1-158	18.2-162	18.1-201	18.2-352
18.1-158.1	18.2-163	18.1-202	18.2-353
18.1-159	18.2-144	18.1-203	18.2-354
18.1-160	18.2-145	18.1-204	18.2-355
18.1-161	18.2-149	18.1-205	In 18.2-355
18.1-162	18.2-206	18.1-206	18.2-356
18.1-163	18.2-117	18.1-207	18.2-368
18.1-164	18.2-102	18.1-208	18.2-357
18.1-165	18.2-109	18.1-209	18.1-358
18.1-166	18.2-146	18.1-210	18.2-359
18.1-167	18.2-147	18.1-211	18.2-360
18.1-168	18.2-148	18.1-212	18.2-361
18.1-169	18.2-151	18.1-213	18.2-370
18.1-170	18.2-150	18.1-214	18.2-370
18.1-171	Reserved	18.1-215	18.2-370
18.1-172	18.2-137	18.1-216	18.2-392
18.1-173	18.2-119	18.1-216.1	18.2-393
18.1-173.1	18.2-120	18.1-217	18.2-397
18.1-173.2	18.2-129	18.1-218	18.2-398
18.1-174	18.2-130	18.1-219	18.2-399
18.1-175	Deleted	18.1-220	18.2-400
18.1-175.1	18.2-142	18.1-221	18.2-401
18.1-176	18.2-143	18.1-222	Repealed
18.1-177	18.2-138	18.1-223	18.2-402
18.1-178	18.2-140	18.1-224	Repealed
18.1-179	18.2-141	18.1-225	18.2-396
18.1-180	18.2-139	18.1-226	18.2-403
18.1-181	18.2-125	18.1-227	18.2-372
18.1-182	18.2-128	18.1-228	18.2-374
18.1-183	18.2-121	18.1-229	18.2-373
18.1-184	18.2-59	18.1-230	18.2-375
18.1-185	18.2-190	18.1-231	18.2-376
18.1-186	18.2-190	18.1-232	18.2-377
18.1-187	18.2-365	18.1-233	18.2-378
18.1-188	18.2-344	18.1-234	18.2-379
18.1-189	Reserved	18.1-235	18.2-382
18.1-190	18.2-344 and 18.2-365	18.1-235.1	18.2-380
		18.1-236	18.2-387
18.1-191	18.2-366	18.1-236.1	18.2-381
18.1-192	18.2-367	18.1-236.2	18.2-383
18.1-193	18.2-345	18.1-236.3	18.2-384
18.1-194	18.2-346	18.1-236.4	18.2-385

TITLE 18.1	THIS REPORT
18.1-236.5	18.2-389
18.1-236.6	18.2-390
18.1-236.7	18.2-391
18.1-237	18.2-388
18.1-238	18.2-427, 18.2-430 and 18.2-431
18.1-238.1	18.2-428
18.1-238.2	18.2-429
18.1-238.3	18.2-167
18.1-239	18.2-415
18.1-240	18.2-415
18.1-241	18.2-283
18.1-242	18.2-394
18.1-243	18.2-126
18.1-244	18.2-127
18.1-245	Deleted
18.1-246	18.2-395
18.1-246.1	18.2-386
18.1-247 through 18.1-253	Repealed
18.1-253.1	18.2-415
18.1-253.2	18.2-415
18.1-253.3	18.2-415
18.1-254	Repealed
18.1-254.01	18.2-404
18.1-254.1	18.2-405 and 18.2-406
18.1-254.2	18.2-405
18.1-254.3	18.2-406
18.1-254.4	18.2-407
18.1-254.5	Repealed
18.1-254.5:1	18.2-408
18.1-254.6	18.2-409
18.1-254.7	18.2-410
18.1-254.8	18.2-411 and 18.2-412
18.1-254.9	18.2-411 and 18.2-412
18.1-254.10	18.2-413
18.1-254.11	18.2-414
18.1-254.12	Deleted
18.1-255	18.2-416
18.1-256	18.2-417
18.1-257	18.2-60
18.1-258	18.2-288
18.1-259	18.2-289
18.1-260	18.2-290
18.1-261	18.2-291
18.1-262	18.2-292
18.1-263	18.2-293 and 18.2-293.1
18.1-264	18.2-294
18.1-265	18.2-295
18.1-266	18.2-296
18.1-267	18.2-297
18.1-268	18.2-298
18.1-268.1	18.2-299
18.1-268.2	18.2-300
18.1-268.3	18.2-301
18.1-268.4	18.2-302
18.1-268.5	18.2-303 and 18.2-303.1
18.1-268.6	18.2-304
18.1-268.7	18.2-305
18.1-268.8	18.2-306
18.1-268.9	18.2-307
18.1-269	18.2-308
18.1-270	18.2-310
18.1-271	18.2-311
18.1-272	18.2-287
18.1-273	18.2-434
18.1-274	18.2-434
18.1-275	18.2-434
18.1-276	18.2-435
18.1-277	18.2-436 and 18.2-437
18.1-278	18.2-438
18.1-279	18.2-439
18.1-280	18.2-445
18.1-281	18.2-440
18.1-282	18.2-441
18.1-282.1	18.2-446
18.1-282.2	18.2-447
18.1-282.3	18.2-448 and 18.2-450
18.1-282.4	18.2-449
18.1-283	Deleted
18.1-284	18.2-473
18.1-285	18.2-474
18.1-286	18.2-475
18.1-287	18.2-476
18.1-288	18.2-477
18.1-289	18.2-478
18.1-290	18.2-479
18.1-291	18.2-480
18.1-292	18.2-456
18.1-293	18.2-458
18.1-294	18.2-459
18.1-295	18.2-457

TITLE 18.1	THIS REPORT
18.1-296	18.2-465
18.1-297	18.2-466
18.1-298	18.2-467
18.1-299	18.2-468
18.1-300	18.2-469
18.1-301	18.2-463
18.1-302	18.2-464
18.1-303	18.2-462
18.1-304	18.2-470
18.1-305	18.2-471
18.1-306	18.2-472
18.1-307	18.2-471 and 18.2-472
18.1-308	18.2-107
18.1-309	18.2-504
18.1-310	18.2-460
18.1-311	18.2-174
18.1-312	18.2-175
18.1-313	18.2-213
18.1-314	Deleted
18.1-315	Deleted
18.1-316 through 18.1-343	18.2-325 through 18.2-340
18.1-344	18.2-309
18.1-345	18.2-265
18.1-346	18.2-249
18.1-347	18.2-284
18.1-348	Deleted
18.1-349	Deleted
18.1-349.1	18.2-432
18.1-350	18.2-433
18.1-351	18.2-433
18.1-352	18.2-433
18.1-353	18.2-433
18.1-354	18.2-433
18.1-355	Deleted
18.1-356	Repealed
18.1-357	Repealed
18.1-358	18.2-341
18.1-358.1	Repealed
18.1-358.2	Repealed
18.1-358.3	18.2-341 and 18.2-342
18.1-358.4	Repealed
18.1-359	18.2-343
18.1-360	Deleted
18.1-361	Deleted
18.1-362	Deleted
18.1-363	Deleted
18.1-364	18.2-422
18.1-365	18.2-423
18.1-366	18.2-423
18.1-367	18.2-423
18.1-367.1	18.2-418
18.1-367.2	18.2-419
18.1-367.3	18.2-419
18.1-367.4	18.2-419
18.1-367.5	18.2-419
18.1-367.6	18.2-419
18.1-368	18.2-424
18.1-369	18.2-425
18.1-370	18.2-426
18.1-371	18.2-431
18.1-372 through 18.1-379	Deleted
18.1-380	Deleted
18.1-380.1	18.2-420
18.1-380.2	18.2-421
18.1-381 through 18.1-387	Deleted
18.1-388	18.2-451
18.1-389	18.2-452
18.1-390	18.2-452
18.1-391	18.2-453
18.1-392	18.2-454
18.1-393	18.2-455
18.1-394 through 18.1-400	Deleted
18.1-400.1	18.2-493
18.1-400.2	18.2-494
18.1-400.3	18.2-495
18.1-400.4	18.2-496
18.1-400.5	18.2-497
18.1-400.6	18.2-498
18.1-401	18.2-461
18.1-402	18.2-442
18.1-403	18.2-443
18.1-404	18.2-444
18.1-405	18.2-445
18.1-406	Deleted
18.1-407	18.2-209
18.1-408	18.2-211
18.1-408.1	18.2-503
18.1-409	18.2-210
18.1-410	18.2-176
18.1-411	Repealed
18.1-412	18.2-212

TITLE 18.1	THIS REPORT	TITLE 18.1	THIS REPORT
18.1-413	Deleted	18.1-420	18.2-483
18.1-414	18.2-315	18.1-421	18.2-484
18.1-415	18.2-319	18.1-422	18.2-485
18.1-415.1	18.2-320	18.1-423	18.2-486
18.1-416	18.2-321	18.1-424	18.2-487
18.1-417	Deleted	18.1-425	18.2-488
18.1-417.1	18.2-166	18.1-426	18.2-489
18.1-417.2	18.2-502	18.1-427	18.2-490
18.1-418	18.2-481	18.1-428	18.2-491
18.1-419	18.2-482	18.1-429	18.2-492

Note: § 18.1-335 will be incorporated into Title 4 as § 4-37.1 and § 18.1-406 will be incorporated into Title 8 as § 8-94.1. Section 18.1-355 will not be incorporated into Title 9 as the provisions of such section are already adequately covered in Chapter 4 of that title.

SHOWING NEW SECTIONS APPEARING IN THIS REPORT

SOURCE	THIS REPORT	SOURCE	THIS REPORT
New	18.2-9	New	18.2-24
New	18.2-10	New	18.2-29
New	18.2-11	New	18.2-30
New	18.2-13	New	18.2-33
New	18.2-14	New	18.2-57
New	18.2-15	New	18.2-72
New	18.2-20	New	18.2-247

SHOWING SECTIONS OF TITLES OTHER THAN TITLE 18.2 AS THEY APPEAR IN THIS REPORT

SOURCE	THIS REPORT	SOURCE	THIS REPORT
2.1-80	18.2-177	6.1-115	18.2-181
2.1-95	18.2-122	through	through
2.1-96	18.2-123	6.1-118	18.2-185
2.1-97	18.2-124	19.1-243(part)	18.2-34

SOURCE	THIS REPORT
19.1-251	18.2-54
19.1-266	18.2-337
20-37.2(part)	18.2-369
20-41	18.2-362
20-42	18.2-364
20-44	18.2-363
29-49	18.2-131
29-140.1	18.2-285
29-165	18.2-132
through	through
29-168	18.2-136
32-69	18.2-322
32-70.1	18.2-323
33.1-349	18.2-286
33.1-350	18.2-324
46.1-238	18.2-212.1
46.1-239	18.2-212.1
53-291(part)	18.2-31
53-291(part)	18.2-55
54-524.101:1	18.2-248
54-524.101:2	18.2-250
through	through
54-524.108	18.2-263
59.1-42	18.2-214
through	through
59.1-68.1	18.2-246

A BILL to revise, rearrange, amend and recodify the general laws of Virginia relating to crimes and offenses generally; to that end to repeal Title 18.1 of the Code of Virginia, which title includes Chapters 1 through 8 and §§ 18.1-1 through 18.1-429, as severally amended, relating to crimes and offenses generally; to amend the Code of Virginia by adding thereto in lieu of the foregoing title, chapters and sections of the Code repealed by this act a title numbered 18.2, chapters numbered 1 through 12 and sections numbered 18.2-1 through 18.2-504, relating to crimes and offenses generally; to prescribe when such revision and recodification shall become effective; and to repeal all acts and parts of acts in conflict with the provisions of this act.

Be it enacted by the General Assembly of Virginia:

1. That Title 18.1 of the Code of Virginia, which title includes Chapters 1 through 8 and §§ 18.1-1 through 18.1-429, as severally amended, is repealed.

2. That the Code of Virginia is amended by adding thereto, in lieu of the title, chapters and sections of the Code herein repealed, a title numbered 18.2, chapters numbered 1 through 12 and sections numbered 18.2-1 through 18.2-504 as follows:

Chapter 1.

In General.

Article 1.

Transition Provisions.

§ 18.2-1. Repealing clause. — All acts and parts of acts, all sections of this Code, and all provisions of municipal charters, inconsistent with the provisions of this title, are, except as herein otherwise provided, repealed to the extent of such inconsistency.

Source: § 18.1-1.

§ 18.2-2. Effect of repeal of Title 18.1 and enactment of this title. — The repeal of Title 18.1, effective as of October one, nineteen hundred seventy-four, shall not affect any act or offense done or committed, or any penalty or forfeiture incurred, or any right established, accrued or accruing on or before such date, or any prosecution, suit or action pending on that day. Except as herein otherwise provided, neither the repeal of Title 18.1 nor the enactment of this title shall apply to offenses committed prior to October one, nineteen hundred seventy-four, and prosecutions for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purposes of this section, an offense was committed prior to October one, nineteen hundred seventy-four, if any of the essential elements of the offense occurred prior thereto.

Source: § 18.1-2.

§ 18.2-3. Certain notices, recognizances and processes validated. — Any notice given, recognizance taken, or process or writ issued before October one, nineteen hundred seventy-four, shall be valid although given, taken or to be returned to a day after such date, in like manner as if this title had been effective before the same was given, taken or issued.

Source: § 18.1-3.

§ 18.2-4. References to former sections, articles and chapters of Titles 18.1 and others. — Whenever in this title any of the conditions, requirements, provisions or contents of any section, article or chapter of Title 18.1 or any

other title of this Code as such titles existed prior to October one, nineteen hundred seventy-four, are transferred in the same or in modified form to a new section, article or chapter of this title or any other title of this Code and whenever any such former section, article or chapter is given a new number in this or any other title, all references to any such former section, article or chapter of Title 18.1 or such other title appearing elsewhere in this Code than in this title shall be construed to apply to the new or renumbered section, article or chapter containing such conditions, requirements, provisions or contents or portions thereof.

Source: § 18.1-4.

Article 2.

Construction and Definitions.

§ 18.2-5. Rules of construction. — In the construction of this title, and of each section thereof, the rules of construction set forth in chapter 2 (§ 1-10 et seq.) of Title 1 of this Code shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly.

Source: § 18.1-5.

Note: § 18.1-5 has been divided into this section and the following § 18.2-6.

§ 18.2-6. Meaning of certain terms. — As used in this title:

The word "court", unless otherwise clearly indicated by the context in which it appears, shall mean and include any court vested with appropriate jurisdiction under the Constitution and laws of this Commonwealth.

The word "judge", unless otherwise clearly indicated by the context in which it appears, shall mean and include any judge, associate judge or substitute judge, or police justice, of any court.

The words "motor vehicle", "semitrailer", "trailer" and "vehicle" shall have the respective meanings assigned to them by § 46.1-1 of this Code.

Source: § 18.1-5.

§ 18.2-7. Criminal act not to merge civil remedy. — The Commission of a crime shall not stay or merge any civil remedy.

Source: § 18.1-7.

Article 3.

Classification of Criminal Offenses and Punishment Therefor.

§ 18.2-8. Felonies and misdemeanors defined. — Offenses are either felonies or misdemeanors. Such offenses as are punishable with death or confinement in the penitentiary are felonies; all other offenses are misdemeanors.

Source: § 18.1-6.

§ 18.2-9. Classification of criminal offenses. — (1) Felonies are classified, for the purposes of punishment and sentencing, into six classes:

(a) class 1 felony
(b) class 2 felony
(c) class 3 felony
(d) class 4 felony

(e) class 5 felony
(f) class 6 felony.

(2) Misdemeanors are classified, for the purposes of punishment and sentencing, into four classes:

(a) class 1 misdemeanor
(b) class 2 misdemeanor
(c) class 3 misdemeanor
(d) class 4 misdemeanor.

Source: New.

§ 18.2-10. Punishment for conviction of felony. — The authorized punishments for conviction of a felony are:

(a) for class 1 felonies, death.

(b) for class 2 felonies, imprisonment for life or for any term not less than twenty years.

(c) for class 3 felonies, a term of imprisonment of not less than five years nor more than twenty years.

(d) for class 4 felonies, a term of imprisonment of not less than two years nor more than ten years.

(e) for class 5 felonies, a term of imprisonment of not less than one year nor more than ten years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than one thousand dollars, either or both.

(f) for class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than one thousand dollars, either or both.

Source: New.

§ 18.2-11. Punishment for conviction of misdemeanor. — The authorized punishments for conviction of a misdemeanor are:

(a) for class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than one thousand dollars, either or both.

(b) for class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than five hundred dollars, either or both.

(c) for class 3 misdemeanors, a fine of not more than five hundred dollars.

(d) for class 4 misdemeanors, a fine of not more than one hundred dollars.

Source: New.

§ 18.2-12. Same. — A misdemeanor for which no punishment or no maximum punishment is prescribed by statute shall be punishable as a class 1 misdemeanor.

Source: § 18.1-9.

§ 18.2-13. Same; by reference. — Where a statute in this Code prescribes punishment by stating that the offense is a misdemeanor, or that it is punishable as provided for in § 18.1-9, the offense shall be deemed to be a class 1 misdemeanor.

Source: New.

§ 18.2-14. Unclassified offenses; how punished. — Offenses defined in Title 18.2 and in other titles in the Code, for which punishment is prescribed without specification as to the class of the offense, shall be punished according to the punishment prescribed in the section or sections thus defining the offense.

Source: New.

§ 18.2-15. Place of punishment. — Imprisonment for conviction of a felony shall be by confinement in the penitentiary, unless in class 5 and class 6 felonies the jury or court trying the case without a jury fixes the punishment at confinement in jail. Imprisonment for conviction of a misdemeanor shall be by confinement in jail.

Source: New.

§ 18.2-16. How common law offenses punished. — A common law offense, for which punishment is prescribed by statute, shall be punished only in the mode so prescribed.

Source: § 18.1-8.

§ 18.2-17. When capital punishment inflicted. — No crime shall be punished with death unless it be authorized by statute.

Source: § 18.1-10.

Chapter 2.

Principals and Accessories.

§ 18.2-18. How principals in second degree and accessories before the fact punished. — In the case of every felony, every principal in the second degree and every accessory before the fact may be indicted, tried, convicted and punished in all respects as if a principal in the first degree.

Source: § 18.1-11.

Note: Divided into two new sections (§§ 18.2-18 and 18.2-19).

§ 18.2-19. How accessories after the fact punished; certain exceptions. — In the case of every felony, every accessory after the fact shall be guilty of a class 1 misdemeanor; provided, however, no person in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, shall aid or assist a principal felon or accessory before the fact to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

Source: §§ 18.1-11 and 18.1-12.

§ 18.2-20. How accessories to misdemeanors punished. — In the case of every misdemeanor, every principal in the second degree, accessory before the fact and accessory after the fact, may be prosecuted, tried, convicted and punished in all respects as if a principal in the first degree.

Source: New.

§ 18.2-21. When and where accessories tried; how indicted. — An accessory, either before or after the fact, may, whether the principal felon be convicted or not, or be amenable to justice or not be indicted, tried, convicted and punished in the county or corporation in which he became accessory, or in

which the principal felon might be indicted. Any such accessory before the fact may be indicted either with such principal or separately.

Source: § 18.1-13.

Chapter 3.

Inchoate Offenses.

Article 1.

Conspiracies.

§ 18.2-22. Conspiracy to commit felony. — (a) If any person shall conspire, confederate or combine with another, either within or without this State, to commit a felony within this State, or if he shall so conspire, confederate or combine with another within this State to commit a felony either within or without this State, he shall be guilty of a felony which shall be punishable as follows:

(1) Every person who so conspires to commit an offense which is punishable by death shall be guilty of a class 3 felony;

(2) Every person who so conspires to commit an offense which is a noncapital felony shall be guilty of a class 5 felony; and

(3) Every person who so conspires to commit an offense the maximum punishment for which is confinement in the penitentiary for a period of less than five years shall be confined in the penitentiary for a period of one year, or, in the discretion of the jury or the court trying the case without a jury, may be confined in jail not exceeding twelve months and fined not exceeding five hundred dollars, either or both.

(b) Provided, however, that in no event shall the punishment for a conspiracy to commit an offense exceed the maximum punishment for the commission of the offense itself.

(c) Jurisdiction for the trial of any person accused of a conspiracy under this section shall be in the county or city wherein any part of such conspiracy is planned or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

(d) The provisions of this section shall not apply to any person who conspires to commit any offense defined in chapter 15.1 (§ 54-524.1 et seq.) of Title 54 or of Article 1, Chapter 7 of this title.

Source: § 18.1-15.3.

§ 18.2-23. Conspiring to trespass after having been forbidden to do so. — If any person shall conspire, confederate or combine with another or others in this State to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty of a class 3 misdemeanor.

Jurisdiction for the trial of any such person shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

Source: § 18.1-15.1.

§ 18.2-24. Conspiracy to commit misdemeanor. — If any person shall conspire, confederate or combine with another or others within this State to commit a misdemeanor either within or without this State, he shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the conspiracy.

Source: New.

Article 2.

Attempts.

§ 18.2-25. Attempts to commit capital offenses; how punished. — Every person who attempts to commit an offense which is punishable with death, shall be guilty of a class 3 felony.

Source: § 18.1-16.

Note: Elimination of the alternative punishments of imprisonment or death in attempts to commit rape is dictated by the decision of the Supreme Court of the United States in Furman v. Georgia, 92 S. Ct. 2726 (1972).

§ 18.2-26. Attempts to commit noncapital felonies; how punished. — Every person who attempts to commit an offense which is a noncapital felony shall be punished as follows:

(1) If the felony attempted is punishable by a maximum punishment of life imprisonment, an attempt thereat shall be punishable as a class 4 felony.

(2) If the felony attempted is punishable by a maximum punishment of twenty years imprisonment, an attempt thereat shall be punishable as a class 5 felony.

(3) If the felony attempted is punishable by a maximum punishment of less than twenty years imprisonment, an attempt thereat shall be punishable as a class 6 felony.

Source: §§ 18.1-17 and 18.1-18.

§ 18.2-27. Attempts to commit misdemeanors; how punished. — Every person who attempts to commit an offense which is a misdemeanor shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt.

Source: § 18.1-19.

§ 18.2-28. Maximum punishment for attempts. — Any provision in this article notwithstanding, in no event shall the punishment for an attempt to commit an offense exceed the maximum punishment had the offense been committed.

Source: § 18.1-20.

§ 18.2-29. Criminal solicitation; penalty. — Any person who commands, entreats, or otherwise attempts to persuade another person to commit a felony, shall be guilty of a class 6 felony.

Source: New.

Note: This section is designed to correct an omission in Virginia criminal law.

Chapter 4.

Crimes Against the Person.

Article 1.

Homicide.

§ 18.2-30. Murder and manslaughter; punishable offenses. — Any person who commits capital murder, murder of the first degree, murder of the second degree, voluntary manslaughter, or involuntary manslaughter, shall be guilty of a felony.

Source: New.

Note: This section merely restates existing principles but which serves as an introductory section to this article on homicide.

§ 18.2-31. Capital murder; defined and punishment. — Murder by extreme torture, starving, or in the commission of, or attempt to commit, rape, or in the commission of, or attempt to commit, abduction as defined in § 18.2-48, shall be capital murder, punishable as a class 1 felony.

If an inmate in a penal institution as defined in § 53-9 of this Code or while in the custody of an employee thereof:

(a) kills, other than accidentally, an employee thereof, or

(b) kills, other than accidentally, any other person lawfully admitted to such institution, except another inmate, or

(c) kills, other than accidentally, any person who is supervising or working with inmates, or

(d) injures any such employee or other person while such inmate is committing any act in violation of § 53-291 of this Code and death results therefrom to such employee or other person,

such inmate shall be guilty of capital murder, punishable as a class 1 felony.

Source: § 18.1-21 and part of § 53-291.

Note: Due to the decision of the Supreme Court of the United States in Furman v. Georgia, 92 S. Ct. 2726 (1972) which requires the elimination of alternative punishments of imprisonment or death in capital punishment offenses, this section defines that type of homicide which is punishable by death alone.

§ 18.2-32. Murder, first and second degree; defined and punishment. — Murder, other than capital murder, by poison, lying in wait, imprisonment, or by any wilful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, robbery or burglary, is murder of the first degree, punishable as a class 2 felony.

All murder other than capital murder and murder in the first degree is murder of the second degree and is punishable as a class 3 felony.

Source: §§ 18.1-21, 18.1-22 and 18.1-23.

Note: This section defines those noncapital homicides which constitute murder of the first degree and murder of the second degree.

§ 18.2-33. Felony homicide; defined and punishment. — The killing of one accidentally, contrary to the intention of the parties, while in the prosecution

of some felonious act other than those specified in §§ 18.2-31 and 18.2-32, is murder of the second degree.

Source: New.

Note: This section is designed to correct an omission in Virginia criminal law.

§ 18.2-34. How petit treason punished. — There shall be no distinction between murder and petit treason, and the last mentioned offense shall be punished as murder.

Source: Part of § 19.1-243.

§ 18.2-35. Voluntary manslaughter; how punished. — Voluntary manslaughter is punishable as a class 5 felony.

Source: § 18.1-24.

§ 18.2-36. Involuntary manslaughter; how punished. — Involuntary manslaughter is punishable as a class 6 felony.

Source: § 18.1-25.

§ 18.2-37. How and where homicide prosecuted and punished, if death occur without the State. — If any person be stricken or poisoned in this State, and die by reason thereof out of this State, the offender shall be as guilty, and shall be prosecuted and punished, as if the death had occurred in the county or corporation in which the stroke or poison was given or administered.

Source: § 18.1-26.

Article 2.

Crimes by Mobs.

§ 18.2-38. Mob defined. — Any collection of people, assembled for the purpose and with the intention of committing an assault or a battery upon any person and without authority of law, shall be deemed a "mob".

Source: § 18.1-27.

§ 18.2-39. Lynching defined. — Any act of violence by a mob upon the body of any person, which shall result in the death of such person, shall constitute a "lynching".

Source: § 18.1-28.

§ 18.2-40. Lynching deemed murder. — Every lynching shall be deemed murder. Any and every person composing a mob and any and every accessory thereto, by which any person is lynched, shall be guilty of murder, and upon conviction, shall be punished as provided in article 1 (§ 18.2-30 et seq.) of this chapter.

Source: § 18.1-29.

§ 18.2-41. Shooting, stabbing, etc., with intent to maim, kill, etc., by mob. — Any and every person composing a mob which shall maliciously or unlawfully shoot, stab, cut or wound any person, or by any means cause him bodily injury with intent to maim, disable, disfigure or kill him, shall be guilty of a class 3 felony.

Source: § 18.1-30.

§ 18.2-42. Assault or battery by mob. — Any and every person composing

a mob which shall commit a simple assault or battery shall be guilty of a class 1 misdemeanor.

Source: § 18.1-31.

§ 18.2-43. Apprehension and prosecution of participants in a lynching. — The attorney for the Commonwealth of any county or city in which a lynching may occur shall promptly and diligently endeavor to ascertain the identity of the persons who in any way participated therein, or who composed the mob which perpetrated the same, and have them apprehended, and shall promptly proceed with the prosecution of any and all persons so found; and to the end that such offenders may not escape proper punishment, such attorney for the Commonwealth may be assisted in all such endeavors and prosecutions by the Attorney General, or other prosecutors designated by the Governor for the purpose; and the Governor may have full authority to spend such sums as he may deem necessary for the purpose of seeking out the identity, and apprehending the members of such mob.

Source: § 18.1-32.

§ 18.2-44. Civil liability for lynching. — No provisions of this article shall be construed to relieve any member of a mob from civil liability to the personal representative of the victim of a lynching.

Source: § 18.1-33.

§ 18.2-45. Persons suffering death from mob attempting to lynch another person. — Every person suffering death from a mob attempting to lynch another person shall come within the provisions of this article, and his personal representative shall be entitled to relief in the same manner and to the same extent as if he were the originally intended victim of such mob.

Source: § 18.1-34.

§ 18.2-46. Jurisdiction. — Jurisdiction of all actions and prosecutions under any of the provisions of this article shall be in the circuit court of the county or city wherein a lynching or other violation of any of the provisions of this article may have occurred, or of the county or city from which the person lynched or assaulted may have been taken as aforesaid.

Source: § 18.1-35.

Article 3.

Kidnapping and Related Offenses.

§ 18.2-47. Abduction and kidnapping; punishment. — Any person, who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes the person of another, with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction"; but the provisions of this section shall not apply to any law enforcement officer in the performance of his duty. The terms "abduction" and "kidnapping" shall be synonymous in this Code.

Abduction for which no punishment is otherwise prescribed shall be punished as a class 5 felony; provided, however, that such offense, if committed by the parent of the person abducted and not punishable as contempt of court in any proceeding then pending, shall be a class 1 misdemeanor.

Source: §§ 18.1-36 and 18.1-37.

§ 18.2-48. Abduction with intent to extort money or for immoral purpose. — Abduction with the intent to extort money, or pecuniary benefit, abduction of any person with intent to defile such person, and abduction of any female

under sixteen years of age for the purpose of concubinage or prostitution, shall be a class 2 felony.

Source: § 18.1-38.

§ 18.2-49. Threatening, attempting or assisting in such abduction. — Any person who (1) threatens, or attempts, to abduct any other person with intent to extort money, or pecuniary benefit, or (2) assists or aids in the abduction of, or threatens to abduct, any person with the intent to defile such person, or (3) assists or aids in the abduction of, or threatens to abduct, any female under sixteen years of age for the purpose of concubinage or prostitution, shall be guilty of a class 5 felony.

Source: § 18.1-39.

§ 18.2-50. Requiring disclosure of information, etc., in event of abduction, etc. — Whenever it is brought to the attention of the members of the immediate family of any person that such person has been abducted, or that threats or attempts have been made to abduct any such person, such members shall make immediate report thereof to the police or other law enforcement officers of the county, city or town where such person resides, and shall render all such possible assistance to such officers in the capture and conviction of the person or persons guilty of the alleged offense. Any person violating any of the provisions of this section shall be guilty of a class 2 misdemeanor.

Source: § 18.1-40.

Article 4.

Assaults and Bodily Woundings.

§ 18.2-51. Shooting, stabbing, etc., with intent to maim, kill, etc. — If any person maliciously shoot, stab, cut, or wound any person or by any means cause him bodily injury, with the intent to maim, disfigure, disable, or kill, he shall, except where it is otherwise provided, be guilty of a class 3 felony. If such act be done unlawfully but not maliciously, with the intent aforesaid, the offender shall be guilty of a class 6 felony.

Source: § 18.1-65.

§ 18.2-52. Malicious bodily injury by means of any caustic substance or agent. — If any person maliciously cause any other person bodily injury by means of any acid, lye or other caustic substance or agent, he shall be guilty of a class 3 felony. If such act be done unlawfully but not maliciously, the offender shall be guilty of a class 6 felony.

Source: § 18.1-67.

§ 18.2-53. Shooting, etc., in committing or attempting a felony. — If any person, in the commission of, or attempt to commit, felony, unlawfully shoot, stab, cut or wound another person he shall be guilty of a class 6 felony.

Source: § 18.1-68.

§ 18.2-54. Conviction of lesser offenses under certain indictments. — On any indictment for maliciously shooting, stabbing, cutting or wounding a person or by any means causing him bodily injury, with intent to maim, disfigure, disable or kill him, or of causing bodily injury by means of any acid, lye or other caustic substance or agent, the jury or the court trying the case without a jury may find the accused not guilty of the offense charged but guilty of unlawfully doing such act with the intent aforesaid, or of assault and battery if the evidence warrants.

Source: § 19.1-251.

§ 18.2-54.1. Attempts to poison. — If any person administer or attempt to administer any poison or destructive thing in food, drink, medicine, or otherwise, or poison any spring, well, or reservoir of water with intent to kill or injure another person, he shall be guilty of a class 3 felony.

Source: § 18.1-64.

§ 18.2-55. Bodily injuries caused by convicts; punishment. — If an inmate in a penal institution as defined in § 53-9 of the Code of Virginia or while in the custody of an employee thereof shall injure:

(a) an employee thereof, or

(b) any other person lawfully admitted to such institution, except another inmate, or

(c) any person who is supervising or working with inmates, or

(d) any such employee or other person while such inmate is committing any act in violation of § 53-291 of the Code of Virginia,

such inmate shall be guilty of a class 3 felony.

Source: Part of § 53-291.

§ 18.2-56. Hazing, civil and criminal liability. — It shall be unlawful to haze, or otherwise mistreat so as to cause bodily injury, any student at any school, college, or university receiving appropriations from the State treasury.

Any person found guilty thereof shall be guilty of a class 1 misdemeanor, unless the injury would be such as to constitute a felony, and in that event the punishment shall be inflicted as is otherwise provided by law for the punishment of such felony.

Any person receiving bodily injury by hazing or mistreatment shall have a right to sue, civilly, the person or persons guilty thereof, whether adults or infants.

The president, or other presiding official of any school, college or university, as herein referred to, shall, upon satisfactory proof of the guilt of any student found guilty of hazing or mistreating another student so as to cause bodily injury, expel such student so found guilty, and shall make report thereof to the attorney for the Commonwealth of the county or city in which such school, college or university is, who shall present the same to the grand jury of such city or county convened next after such report is made to him.

Source: § 18.1-71.

§ 18.2-57. Assault and battery; punishment. — Any person who shall commit a simple assault or assault and battery shall be guilty of a class 1 misdemeanor.

Source: New.

Note: This section is based on present case law.

Article 5.

Robbery.

§ 18.2-58. Robbery; how punished. — If any person commit robbery by partial strangulation, or suffocation, or by striking or beating, or by other violence to the person, or by assault or otherwise putting a person in fear of

serious bodily harm or by the threat or presenting of firearms, or other deadly weapon or instrumentality whatsoever, he shall be guilty of a class 2 felony.

Source: § 18.1-91.

Note: The death penalty has been eliminated.

Article 6.

Extortion and other Threats.

§ 18.2-59. Extorting money, etc., by threats. — If any person threaten injury to the character, person, or property of another person or accuse him of any offense and thereby extort money, property, or pecuniary benefit or any note, bond, or other evidence of debt from him or any other person, he shall be guilty of a class 5 felony.

Source: § 18.1-184.

§ 18.2-60. Threats of death or bodily injury to a person or member of his family. — If any person write or compose and also send or procure the sending of any letter or inscribed communication, so written or composed, whether such letter or communication be signed or anonymous, to any person, containing a threat to kill or do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of his or her family, the person so writing or composing and sending or procuring the sending of such letter or communication may be prosecuted either in the county, city or town in which the letter or inscribed communication is composed, written, sent or procured to be sent or in the county, city or town in which the letter or inscribed communication is received.

Any person convicted of a violation of this section shall be guilty of a class 6 felony.

Source: § 18.1-257.

Article 7.

Rape.

§ 18.2-61. Capital rape; definition and punishment. — If any person carnally know a female against her will, by force, accompanied by serious bodily injury to such female or by use of a deadly weapon or by a threat to use such weapon accompanied by a display thereof, or carnally know a female child under seven years of age, he shall be guilty of capital rape, punishable as a class 1 felony.

Source: § 18.1-44.

Note: §§ 18.2-61 through 18.2-64 comprise a complete revision of the offense of rape as contained in § 18.1-44. See the General Note at the commencement of this Report.

§ 18.2-62. Other forcible rape; definition and punishment. — If any person carnally know a female seven years of age or older against her will, by force, in a manner not specified in § 18.2-61, he shall be guilty of a class 2 felony.

Source: § 18.1-44.

Note: See the General Note at the commencement of this Report.

§ 18.2-63. Nonforcible carnal knowledge of female child; definition and punishment. — If any person carnally know, without the use of force, a female

child seven years of age or older but under fifteen years of age, he shall be guilty of a class 3 felony.

Provided, however, if such female child be eleven years of age or older but under fifteen years of age and consents to the carnal knowledge and the accused is an adult, he shall be guilty of a class 5 felony; and if the accused be a minor and such consenting female child is three years or more his junior, such minor shall be guilty of a class 6 felony, but if such consenting female is less than three years his junior, such accused minor shall be guilty of fornication.

In calculating whether such female child is three years or more a junior of the accused minor, the actual dates of birth of the female and the accused, respectively, shall be used.

Source: § 18.1-44.

Note: See the General Note at the commencement of this Report.

§ 18.2-64. Rape; female patients or pupils of certain institutions; definition and punishment. — If any person carnally know:

(a) A female patient of any hospital, who has been adjudged mentally ill and has not been discharged as a patient from such hospital, or

(b) A female patient or pupil of an institution for deaf, dumb, blind, mentally ill, mentally retarded, feeble-minded or epileptic persons,

knowing, or having good reason to believe, that such female is such a patient or pupil, or that she is merely on furlough with convalescent status from such hospital or institution or an escapee therefrom, he shall be guilty of a class 3 felony.

Source: § 18.1-44.

Note: See the General Note at the commencement of this Report.

§ 18.2-65. Effect of female being of bad moral repute or lewd. — Upon the trial of any defendant under any section in this article, charged with unlawful carnal knowledge of a female child fourteen years of age or older and not a patient or pupil of an institution mentioned in § 18.2-64, if the jury, or the court trying the case without a jury, shall find that such female child was of bad moral repute and also was a lewd female, at and before the time of the alleged offense, and that said unlawful carnal knowledge was with her consent, the defendant shall not be convicted of rape, but, if warranted by the evidence, the jury, or the court trying the case without a jury, may find the defendant guilty of contributing to the delinquency of a minor child or of fornication, and shall fix the defendant's punishment as provided by law for whichever of said offenses the defendant is convicted.

Source: § 18.1-46.

§ 18.2-66. Effect of subsequent marriage to female over fourteen years of age. — If the carnal knowledge be with the consent of the female and she being fourteen years of age or older and not a patient or pupil of an institution mentioned in § 18.2-64, the subsequent marriage of the parties may be pleaded to any indictment found against the accused; whereupon, the court, upon proof of such marriage, and that the parties are living together as husband and wife, and that the accused has properly provided for, supported, and maintained and is at the time properly providing, supporting and maintaining the wife and the issue of such marriage, if any, shall continue the case from time to time and from term to term, until the wife shall arrive at the age of sixteen years, and thereupon the court shall dismiss the indictment already found against the accused for the aforesaid offense; but should the husband desert the wife

before she shall attain to the age of sixteen years without just cause, any indictment found against him for such offense shall be tried without regard to the number of times the case shall have been continued, and whether such continuance be entered upon the order book or not.

Source: § 18.1-45.

§ 18.2-67. Depositions of female witnesses in cases of rape and attempted rape. — Before or during the trial of an indictment for rape, or attempted rape, in which the female who is alleged to have been assaulted is a witness, the judge of the court in which the same is tried may, in his discretion, by an order entered of record, either in term time or in vacation, direct that the deposition of such witness be taken at a time and place designated in the order, and the judge may adjourn the taking thereof to such other time and places as he may deem necessary. Such deposition shall be taken by the judge, or by the clerk or any officer authorized to take depositions in the presence of the judge, in the county or city in which the offense was committed or the trial is had, and the judge shall rule upon all questions of evidence, and otherwise control the taking of the same as though it were taken in open court. At the taking of such deposition the attorney for the Commonwealth, as well as the accused and his attorneys, shall be present and they shall have the same rights in regard to the examination of such witness as if she were testifying in open court. But no other persons shall be present unless expressly permitted by the judge. Such deposition shall be read to the jury at the time such witness might have testified if such deposition had not been taken, and shall be considered by them, and shall have the same force and effect as though such testimony had been given orally in court. But the clerk of the court, in case no appeal is taken, shall, after the time for granting a writ of error has elapsed, withdraw the deposition from the record of the case and destroy the same. The judge may, in like manner, direct other depositions of witness, in rebuttal or otherwise, which shall be taken and read in the manner and under the conditions herein prescribed as to the first deposition. The cost of taking such depositions shall be paid by the Commonwealth.

Source: § 18.1-47.

Article 8.

Seduction.

§ 18.2-68. Seduction of female of previous chaste character; reputation for chastity. — If any person, under promise of marriage, conditional or unconditional, seduce and have illicit connection with any unmarried female of previous chaste character, or if any married man seduce and have illicit connection with any unmarried female of previous chaste character, he shall be guilty of a class 4 felony. For the purpose of this section, the chastity of the female shall be presumed, in the absence of evidence to the contrary. In all criminal prosecutions for seduction under this section, evidence respecting the general reputation of the prosecutrix for chastity may be introduced either by the Commonwealth or the accused.

Source: § 18.1-41.

§ 18.2-69. Evidence necessary to convict; limitation of prosecution. — No conviction under § 18.2-68 shall be had on the testimony of the female seduced, unsupported by other evidence, nor unless the indictment shall be found within two years after the commission of the offense.

Source: § 18.1-42.

§ 18.2-70. Marriage a bar to conviction. — In any prosecution under §

18.2-68 the subsequent marriage of the parties may be pleaded in bar of a conviction.

Source: § 18.1-43.

Article 9.

Abortion.

§ 18.2-71. Producing abortion or miscarriage, etc.; penalty. — Except as provided in other sections of this article, if any person administer to, or cause to be taken by a woman, any drug or other thing, or use means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and thereby destroy such child, or produce such abortion or miscarriage, he shall be guilty of a class 4 felony.

Source: § 18.1-62.

§ 18.2-72. Abortion; when lawful during first trimester of pregnancy. — Notwithstanding any of the provisions of §§ 18.2-71 and 18.2-73, it shall be lawful for any physician licensed by the Board of Medical Examiners for the State of Virginia to practice medicine and surgery, during the first trimester of a patient's pregnancy, to terminate her pregnancy at her request.

Source: New.

Note: This section is designed to save the constitutionality of the Virginia law on abortion in view of the decision of the Supreme Court of the United States in Roe v. Wade, 93 S. Ct. 705 (1973).

§ 18.2-73. Abortion; when otherwise lawful. — Notwithstanding any of the provisions of § 18.2-71 and in addition to the provisions of § 18.2-72, it shall be lawful for any physician licensed by the Board of Medical Examiners for the State of Virginia to practice medicine and surgery to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on a woman in any stage of pregnancy, provided the following conditions are met:

(a) Said operation is performed in a hospital accredited by The Joint Committee on Accreditation of Hospitals and licensed by the Department of Health in the State of Virginia.

(b) (1) Before performing such abortion or inducing such miscarriage, the physician shall sign an affidavit, and file such affidavit in the hospital records of the woman, stating that in his medical opinion:

(i) The continuation of the pregnancy is likely to result in the death of the woman, or substantially impair the mental or physical health of the woman; or,

(ii) There is a substantial medical likelihood that the child will be born with an irremediable and incapacitating mental or physical defect.

(2) In lieu of a physician's affidavit as required by subsection (c) (1) of this section, an affidavit from the woman filed in her hospital records stating that the pregnancy resulted from incest or from forcible rape; provided, however, said alleged rape must have been reported to a law-enforcement agency or Commonwealth's attorney within seven days after the occurrence of the alleged rape, or as soon thereafter as possible in the case of a kidnap or abduction victim; and further provided, in the case of incest, that said affidavit identify the male committing said act of incest.

(c) Written consent is given by a majority of the members of the Hospital Abortion Review Board of the hospital in which the abortion takes place.

(d) Written consent is given by the woman if legally competent to give such consent; and if there is substantial medical likelihood that the child will be born with an irremediable and incapacitating mental or physical defect, the written consent of the husband shall be required if the woman and husband are living together as man and wife. Provided, however, if the said woman shall be an infant or incompetent as adjudicated by any court of competent jurisdiction, then only after permission is given in writing by a parent, or if married by her husband, guardian or person standing in loco parentis to said infant or incompetent.

Any person who submits a false affidavit under this section shall be guilty of a class 1 misdemeanor.

Source: § 18.1-62.1.

§ 18.2-74. Hospital abortion review boards. — The hospital abortion review board referred to in § 18.2-73 shall consist of at least three physicians and shall have at least one physician who is a specialist in obstetrics or gynecology licensed to practice medicine and surgery. For purposes of this section the phrase "specialist in obstetrics or gynecology" shall mean and include any physician who is recognized by the American Board of Obstetrics and Gynecology as certified, eligible, or qualified, as these terms are defined by such Board, or who limits his practice to obstetrics and gynecology. No hospital shall be required to establish a hospital abortion review board and no abortion shall be performed in a hospital which does not establish a hospital abortion review board. Nor shall any physician be liable or held legally accountable for his refusal to serve on any hospital abortion review board or to perform any abortion.

Source: § 18.1-62.2.

§ 18.2-75. Abortion; when necessary to save life of woman. — In the event it is necessary for a licensed physician to terminate a human pregnancy or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman in order to save her life, in the opinion of the physician so performing an abortion or causing a miscarriage, §§ 18.2-71 and 18.2-73 shall not be applicable except that subsection (d) of § 18.2-73 shall remain in effect.

Source: § 18.1-62.3.

§ 18.2-76. Encouraging or promoting abortion. — If any person, by publication, lecture, advertisement, or by the sale or circulation of any publication, or through the use of a referral agency for profit, or in any other manner, encourage or promote the performing of an abortion or the inducing of a miscarriage in this State which is prohibited under this article, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-63.

Chapter 5.

Crimes Against Property.

Article 1.

Arson and Related Crimes.

§ 18.2-77. Burning or destroying dwelling house, etc., at night. — If any person, in the nighttime, maliciously burn, or by use of any explosive device or substance, maliciously destroy, in whole or in part, or cause to be burned or destroyed, or aid, counsel or procure the burning or destruction of any dwelling house or house trailer, whether the property of himself or of another, or any

hotel, asylum, or other house in which persons usually dwell or lodge, or any railroad car, boat, or vessel, or river craft, in which persons usually dwell or lodge, or any jail or prison, or maliciously set fire to anything, or aid, counsel or procure the setting fire to anything, by the burning whereof such dwelling house, house trailer, hotel, asylum, or other house, or railroad car, boat, vessel, or river craft, jail or prison, shall be burned in the nighttime, he shall be guilty of a class 2 felony; but if the jury or the court trying the case without a jury finds that at the time of committing the offense there was no person in such dwelling house, hotel, asylum, or other house, or in such railroad car, boat, vessel, or river craft, jail or prison, the offender shall be guilty of a class 3 felony.

Any such burning or destruction in the daytime, whether the building or other place mentioned in this section be occupied or not, shall be punishable as a class 4 felony.

Source: § 18.1-75.

Note: The death penalty has been eliminated from this section.

§ 18.2-78. What not deemed dwelling house. — No outhouse, not adjoining a dwelling house, nor under the same roof, although within the curtilage thereof, shall be deemed a part of such dwelling house, within the meaning of this chapter, unless some person usually lodge therein at night.

Source: § 18.1-77.

§ 18.2-79. Burning or destroying meeting house, etc. — If any person maliciously burn, or by the use of any explosive device or substance, maliciously destroy, in whole or in part, or cause to be burned or destroyed, or aid, counsel, or procure the burning or destroying, of any meeting house, courthouse, townhouse, college, academy, schoolhouse, or other building erected for public use, except an asylum, hotel, jail or prison, or any banking house, warehouse, storehouse, manufactory, mill, or other house, whether the property of himself or of another person, not usually occupied by persons lodging therein at night, at a time when any person is therein, or if he maliciously set fire to anything, or cause to be set on fire, or aid, counsel, or procure the setting on fire of anything, by the burning whereof any building mentioned in this section shall be burned, at a time when any person is therein, he shall be guilty of a class 3 felony. If such offense be committed when no person is in such building mentioned in this section, the offender shall be guilty of a class 4 felony.

Source: § 18.1-78.

§ 18.2-80. Burning or destroying any other building or structure. — If any person maliciously, or with intent to defraud an insurance company or other person, burn, or by the use of any explosive device or substance, maliciously destroy, in whole or in part, or cause to be burned or destroyed, or aid, counsel or procure the burning or destruction of any building, bridge, lock, dam or other structure, whether the property of himself or of another, at a time when any person is therein or thereon, the burning or destruction whereof is not punishable under any other section of this chapter, he shall be guilty of a class 3 felony. If he commits such offense at a time when no person is in such building, or other structure, and such building, or other structure, with the property therein, be of the value of one hundred dollars, or more, he shall be guilty of a class 4 felony, and if it and the property therein be of less value, he shall be guilty of a class 1 misdemeanor.

Source: §§ 18.1-80, 18.1-81 and 18.1-85.

§ 18.2-81. Burning or destroying personal property, standing grain, etc. — If any person maliciously, or with intent to defraud an insurance company or other person, set fire to or burn or destroy by any explosive device or substance, or cause to be burned, or destroyed by any explosive device or substance, or aid, counsel, or procure the burning or destroying by any explosive device or substance, of any personal property, standing grain or other crop, he shall, if the thing burnt or destroyed, be of the value of one hundred dollars or more, be guilty of a class 4 felony; and if the thing burnt or destroyed be of less value, he shall be guilty of a class 1 misdemeanor.

Source: §§ 18.1-79 and 18.1-85.

§ 18.2-82. Burning building or structure while in such building or structure with intent to commit felony. — If any person while in any building or other structure unlawfully, with intent to commit a felony therein, shall burn or cause to be burned, in whole or in part, such building or other structure, the burning of which is not punishable under any other section of this chapter, he shall be guilty of a class 4 felony.

Source: § 18.1-80.1.

§ 18.2-83. Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc.; punishment. — Any person (a) who makes and communicates to another by any means any threat to bomb, burn, destroy or in any manner damage any place of assembly, building or other structure, or any means of transportation, or (b) who communicates to another, by any means, information, knowing the same to be false, as to the existence of any peril of bombing, burning, destruction or damage to any such place of assembly, building or other structure, or any means of transportation, shall be guilty of a class 5 felony; provided, however, that if such person be under fifteen years of age, he shall be guilty of a class 1 misdemeanor.

Source: §§ 18.1-78.1 through 18.1-78.4.

Note: These sections have been combined to avoid needless repetition.

§ 18.2-84. Causing, inciting, etc., commission of act proscribed by § 18.2-83. — Any person fifteen years of age or over, including the parent of any child, who shall cause, encourage, incite, entice or solicit any person, including a child, to commit any act proscribed by the provisions of § 18.2-83, shall be guilty of a class 5 felony.

Source: § 18.1-78.5.

§ 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosives. — (a) For the purpose of this section, "fire bomb" means a container containing gasoline, kerosene, fuel oil, derivative thereof, or similar flammable substance, with a flash point of one hundred seventy degrees Fahrenheit or less, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, derivative thereof or similar flammable substance; provided that no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be a fire bomb.

(b) It shall be unlawful for any person to possess materials with which fire bombs or explosives as defined in § 40.1-23 can be made with the intent to manufacture fire bombs or explosives.

(c) It shall be unlawful to manufacture, distribute, possess or use a fire bomb or explosive.

(d) Violators of this section shall be guilty of a class 5 felony.

(e) Nothing in this section shall prohibit the authorized manufacture, use or possession of any material, substance, or device by a member of the armed forces of the United States, firemen or law-enforcement officers; nor shall it prohibit the manufacture, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose.

Source: § 18.1-78.6.

§ 18.2-86. Setting fire to woods, fences, grass, etc. — If any person maliciously set fire to any wood, fence, grass, straw or other thing capable of spreading fire on land, he shall be guilty of a class 6 felony.

Source: § 18.1-82.

§ 18.2-87. Setting woods, etc., on fire intentionally whereby another is damaged, etc. — Any person who intentionally sets or procures another to set fire to any woods, brush, leaves, grass, straw, or any other inflammable substance capable of spreading fire, and who intentionally allows the fire to escape to lands not his own, whereby the property of another is damaged or jeopardized, shall be guilty of a class 2 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting the fire.

Source: § 18.1-83.

§ 18.2-88. Carelessly damaging property by fire. — If any person carelessly, negligently or intentionally set any woods or marshes on fire, or set fire to any stubble, brush, straw, or any other substance capable of spreading fire on lands, whereby the property of another is damaged or jeopardized, he shall be guilty of a class 4 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting the fire.

Source: § 18.1-84.

Article 2.

Burglary and Related Offenses.

§ 18.2-89. Burglary; how punished. — If any person break and enter the dwelling house of another in the nighttime with intent to commit a felony or any larceny therein, he shall be guilty of burglary, punishable as a class 3 felony; provided, however, that if such person was armed with a deadly weapon at the time of such entry, he shall be guilty of a class 2 felony.

Source: § 18.1-86.

Note: The death penalty has been eliminated from this section. The punishment for burglary with a deadly weapon has been increased.

§ 18.2-90. Entering dwelling house, etc., with intent to commit murder, rape or robbery. — If any person in the nighttime enter without breaking or in the daytime break and enter a dwelling house or an outhouse adjoining thereto and occupied therewith or in the nighttime enter without breaking or break and enter either in the daytime or nighttime any office, shop, storehouse, warehouse, banking house, or other house, or any ship, vessel or river craft or any railroad car, or any automobile, truck, or trailer, if such automobile, truck or trailer is used as a dwelling or place of human habitation, with intent to commit murder, rape or robbery, he shall be deemed guilty of statutory burglary, which offense shall be a class 3 felony; provided, however, that if such person was armed with a deadly weapon at the time of such entry, he shall be guilty of a class 2 felony.

Source: § 18.1-88.

Note: The punishment for housebreaking with a deadly weapon has been increased.

§ 18.2-91. Entering dwelling house, etc., with intent to commit larceny or other felony. — If any person do any of the acts mentioned in § 18.2-90 with intent to commit larceny, or any felony other than murder, rape or robbery, he shall be deemed guilty of statutory burglary; which offense shall be a class 5 felony; provided, however, that if such person was armed with a deadly weapon at the time of such entry, he shall be guilty of a class 2 felony.

Source: § 18.1-89.

Note: The punishment for housebreaking with a deadly weapon has been increased.

§ 18.2-92. Breaking and entering dwelling house with intent to commit assault or other misdemeanor. — If any person break and enter a dwelling house while said dwelling is occupied, either in the day or nighttime, with the intent to commit assault or any other misdemeanor except trespass, he shall be guilty of a class 6 felony; provided, however, that if such person was armed with a deadly weapon at the time of such entry, he shall be guilty of a class 2 felony.

Source: § 18.1-88.1.

§ 18.2-93. Entering bank, armed, with intent to commit larceny. — If any person, armed with a deadly weapon, shall enter any banking house, in the daytime or in the nighttime, with intent to commit larceny of money, bonds, notes, or other evidence of debt therein, he shall be guilty of a class 2 felony.

Source: § 18.1-90.

§ 18.2-94. Possession of burglarious tools. — If any person have in his possession any tools, implements or outfit, with intent to commit burglary, robbery, or larceny, upon conviction thereof he shall be guilty of a class 5 felony. The possession of such burglarious tools, implements or outfit by any person other than a licensed dealer, shall be prima facie evidence of an intent to commit burglary, robbery or larceny.

Source: § 18.1-87.

Article 3.

Larceny and Receiving Stolen Goods.

§ 18.2-95. Grand larceny defined; how punished. — Any person who: (1) Commits larceny from the person of another of money or other thing of value of five dollars or more, or

(2) Commits simple larceny not from the person of another of goods and chattels of the value of one hundred dollars or more, shall be deemed guilty of grand larceny which shall be punishable as a class 5 felony.

Source: § 18.1-100.

§ 18.2-96. Petit larceny defined; how punished. — Any person who: —

(1) Commits larceny from the person of another of money or other thing of value of less than five dollars, or

(2) Commits simple larceny not from the person of another of goods and chattels of the value of less than one hundred dollars, shall be deemed guilty of petit larceny, which shall be punishable as a class 1 misdemeanor.

Source: § 18.1-101.

§ 18.2-97. Larceny of certain animals and poultry. — Any person who shall be guilty of the larceny of a dog, horse, pony, mule, cow, steer, bull or calf shall be guilty of a class 5 felony; and any person who shall be guilty of the larceny of any poultry of the value of five dollars or more, but of the value of less than one hundred dollars, or of a sheep, lamb, swine, or goat, of the value of less than one hundred dollars, shall be guilty of a class 6 felony.

Source: § 18.1-102.

§ 18.2-98. Larceny of bank notes, checks, etc., or any book of accounts. — If any person steal any bank note, check, or other writing or paper of value, whether the same represents money and passes as currency, or otherwise, or any book of accounts, for or concerning money or goods due or to be delivered, he shall be deemed guilty of larceny thereof, and receive the same punishment, according to the value of the thing stolen, prescribed for the punishment of the larceny of goods and chattels. The provisions of this section shall be construed to embrace all bank notes and papers of value representing money and passing as currency, whether the same be the issue of this State or any other state, or of the United States, or of any corporation, and shall include all other papers of value, of whatever description. In a prosecution under this section, the money due on or secured by the writing, paper or book, and remaining unsatisfied, or which in any event might be collected thereon, or the value of the property or money affected thereby, shall be deemed to be the value of the article stolen.

Source: §§ 18.1-104 and 18.1-105.

§ 18.2-99. Larceny of things fixed to the freehold. — Things which savor of the realty, and are at the time they are taken part of the freehold, whether they be of the substance or produce thereof, or affixed thereto, shall be deemed goods and chattels of which larceny may be committed, although there be no interval between the severing and taking away.

Source: § 18.1-106.

§ 18.2-100. Removal of crop by tenant before rents and advances are satisfied.—It shall be unlawful for any person renting the lands of another, either for a share of the crop or for money consideration, to remove therefrom, without the consent of the landlord, any part of such crop until the rents and advances are satisfied. Every such offense shall be punishable as a class 3 misdemeanor.

Source: § 18.1-115.

§ 18.2-101. Selling, etc., of goods distrained or levied on. — If any person fraudulently sell, pledge, encumber, remove, destroy, receive or secrete any goods, chattels or other personal property of any kind whatsoever that has been distrained or levied upon, with intent to defeat such distress or levy, he shall be deemed guilty of the larceny thereof.

Source: § 18.1-108.

§ 18.2-102. Unauthorized use of animal, aircraft, vehicle or boat; consent; accessories or accomplices. — Any person who shall take, drive or use any animal, aircraft, vehicle, boat or vessel, not his own, without the consent of the owner thereof and in the absence of the owner, and with intent temporarily to deprive the owner thereof of his possession thereof, without intent to steal the same, shall be guilty of a class 6 felony; provided, however, that if the value of such animal, aircraft, vehicle, boat or vessel shall be less than one hundred dollars, such person shall be guilty of a class 1 misdemeanor. The consent of the owner of an animal, aircraft, vehicle, boat or vessel to its taking, driving or using shall not in any case be presumed or implied because of such owner's

consent on a previous occasion to the taking, driving or using of such animal, aircraft, vehicle, boat or vessel by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in, any such unauthorized taking, driving or using shall be subject to the same punishment as if he were the principal offender.

Source: § 18.1-164.

§ 18.2-103. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts. — Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, shall be deemed guilty of larceny and upon conviction thereof shall be punished as provided in § 18.2-104. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

Source: § 18.1-126.

§ 18.2-104. Punishment for conviction under § 18.2-103. — (a) Any person convicted for the first time of an offense under § 18.2-103, when the value of the goods or merchandise involved in the offense is less than one hundred dollars, shall be guilty of a class 1 misdemeanor.

(b) Any person convicted of an offense under § 18.2-103, when the value of the goods or merchandise involved in the offense is less than one hundred dollars, and it is alleged in the warrant or information on which he is convicted, and admitted, or found by the jury or judge before whom he is tried, that he has been before convicted in the Commonwealth of Virginia for the like offense, regardless of the value of the goods or merchandise involved in the prior conviction, shall be confined in jail not less than thirty days nor more than twelve months; and for a third, or any subsequent offense, he shall be confined in the penitentiary not less than one nor more than two years.

(c) Any person convicted of an offense under § 18.2-103, when the value of the goods or merchandise involved in the offense is one hundred dollars or more, shall be guilty of a class 5 felony.

Source: § 18.1-126.1.

§ 18.2-105. Exemption from civil liability in connection with arrest of suspected person. — A merchant, agent or employee of the merchant, who causes the arrest of any person pursuant to the provisions of § 18.2-103, shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested, whether such arrest takes place on the premises of the merchant, or after close pursuit from such premises by such merchant, his agent or employee, provided that, in causing the arrest of such person, the merchant, agent or employee of the merchant, had at the time of such arrest probable cause to believe that the person committed wilful concealment of goods or merchandise.

Source: § 18.1-127.

§ 18.2-106. "Agents of the merchant" defined. — As used in this article "agents of the merchant" shall include attendants at any parking lot owned or

leased by the merchant, or generally used by customers of the merchant through any contract or agreement between the owner of the parking lot and the merchant.

Source: § 18.1-128.

§ 18.2-107. Theft or destruction of public records by others than officers. — If any person, other than a public officer, steal or fraudulently secrete or destroy a public record or part thereof, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-308.

§ 18.2-108. Receiving, etc., stolen goods. — If any person buy or receive from another person, or aid in concealing, any stolen goods or other thing, knowing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender be not convicted.

Source: § 18.1-107.

§ 18.2-109. Receipt or transfer of possession of stolen vehicle, aircraft or boat. — Any person who, with intent to procure or pass title to a vehicle, aircraft, boat or vessel, which he knows or has reason to believe has been stolen, shall receive or transfer possession of the same from one to another or who shall with like intent have in his possession any vehicle, aircraft, boat or vessel which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as an officer, shall be guilty of a class 6 felony.

Source: § 18.1-165.

§ 18.2-110. Forfeiture of motor vehicles used in transportation of stolen goods. — Any vehicle knowingly used by the owner thereof or used by another with his knowledge for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is one hundred dollars or more, shall be forfeited to the Commonwealth and shall be seized by any law-enforcement officer arresting the operator of such vehicle for larceny of such stolen goods, chattels or other property, and by him delivered to the sheriff of the county or sergeant of the city in which such arrest is made, and a receipt taken thereof.

Thereafter, forfeiture of such vehicle shall be enforced as is provided in § 4-56 of the Code of Virginia as to vehicles used for the transportation of illegally acquired alcoholic beverages, and the provisions of § 4-56 shall apply, mutatis mutandis, to proceedings for the enforcement of such forfeiture.

Source: § 18.1-107.1.

Article 4.

Embezzlement and Fraudulent Conversions.

§ 18.2-111. Embezzlement deemed larceny; indictment; statement from attorney for the Commonwealth. — If any person wrongfully and fraudulently use, dispose of, conceal or embezzle any money, bill, note, check, order, draft, bond, receipt, bill of lading or any other personal property, tangible or intangible, which he shall have received for another or for his employer, principal or bailor, or by virtue of his office, trust, or employment, or which shall have been entrusted or delivered to him by another or by any court, corporation or company, he shall be deemed guilty of larceny thereof, may be indicted as for larceny, and proof of embezzlement under this section shall be sufficient to sustain the charge. On the trial of every indictment for larceny,

however, the defendant, if he demands it, shall be entitled to a statement in writing from the attorney for the Commonwealth designating the statute he intends to rely upon to ask for conviction.

Source: § 18.1-109.

§ 18.2-112. Embezzlement by officers, etc., of public funds; default in paying over funds evidence of guilt. — If any officer, agent or employee of the State or of any city, town, county, or any other political subdivision, or the deputy of any such officer having custody of public funds knowingly misuse or misappropriate the same or knowingly dispose thereof otherwise than in accordance with law, he shall be guilty of a class 4 felony; and any default of such officer, agent, employee or deputy in paying over any such funds to the proper authorities when required by law to do so shall be deemed prima facie evidence of his guilt.

Source: § 18.1-110.

§ 18.2-113. Fraudulent entries, etc., in accounts by officers or clerks of banks or joint stock companies. — If any officer or clerk of any bank or joint stock company make, alter or omit to make any entry in any account kept in such bank, or by such company, with intent, in so doing, to conceal the true state of such account, or to defraud such bank or company, or to enable or assist any person to obtain money to which he was not entitled, such officer or clerk shall be guilty of a class 4 felony.

Source: § 18.1-111.

§ 18.2-114. Sale, etc., of goods, etc., of another and failure to pay over proceeds. — If any person store or ship goods, wares, merchandise, grain, flour or other produce or commodity, in his own name, being in the possession thereof for or on account of another, and sell, negotiate, pledge or hypothecate the same or any part thereof, or the receipts or bill of lading received therefor, and fraudulently fail to account for or pay over to his principal or the owner of the property the amount so received on such sale, negotiation, pledge or hypothecation, he shall be deemed guilty of larceny thereof.

Source: § 18.1-112.

§ 18.2-115. Fraudulent conversion or removal of property subject to a lien or title to which is in another. — Whenever any person is in possession of any personal property, including motor vehicles, in any capacity, the title or ownership of which he has agreed in writing shall be or remain in another, or on which he has given a lien, and such person so in possession shall fraudulently sell, pledge, pawn or remove such property from the premises where it has been agreed that it shall remain, and refuse to disclose the location thereof, or otherwise dispose of the property or fraudulently remove the same from the State, without the written consent of the owner or lienor or the person in whom the title is, or, if such writing be a deed of trust, without the written consent of the trustee or beneficiary in such deed of trust, he shall be deemed guilty of the larceny thereof.

In any prosecution hereunder, the fact that such person after demand therefor by the lienholder or person in whom the title or ownership of the property is, or his agent, shall fail or refuse to disclose to such claimant or his agent the location of the property, or to surrender the same, shall be prima facie evidence of the violation of the provisions of this section. The venue of prosecutions against persons fraudulently removing any such property, including motor vehicles, from the State shall be the county or city in which such property or motor vehicle was purchased or in which the accused last had a legal residence.

This section shall not be construed to interfere with the rights of any innocent third party purchasing such property, unless such writing shall be docketed or recorded as provided by law.

Source: § 18.1-116.

§ 18.2-116. Failure to pay for or return goods delivered for selection or approval. — If any person shall solicit and obtain from any merchant any goods, wares or merchandise for examination or approval, and shall thereafter, upon written demand, refuse or fail to return the same to such merchant in unused condition, or to pay for the same, such person so offending shall be deemed guilty of the larceny thereof. But the provisions of this section shall not apply unless such written demand be made within five days after delivery, and unless the goods, wares or merchandise shall have attached to them or to the package in which they are contained a label, card or tag containing the words, "Delivered for selection or approval."

Source: § 18.1-117.

§ 18.2-117. Failure to return an animal, aircraft, vehicle or boat. — If any person comes into the possession as bailee of any animal, aircraft, vehicle, boat or vessel, and fail to return the same to the bailor, in accordance with the bailment agreement, he shall be deemed guilty of larceny thereof and receive the same punishment, according to the value of the thing stolen, prescribed for the punishment of the larceny of goods and chattels. The failure to return to the bailor such animal, aircraft, vehicle, boat or vessel, within five days from the time the bailee has agreed in writing to return the same shall be prima facie evidence of larceny by such bailee of such animal, aircraft, vehicle, boat or vessel.

Source: § 18.1-163.

§ 18.2-118. Fraudulent conversion or removal of leased personal property. — (a) Whenever any person is in possession or control of any personal property, by virtue of or subject to a written lease of such property, except property described in § 18.2-117, and such person so in possession or control shall, with intent to defraud, dispose of the property for his own use, or fraudulently remove the same from the State without the written consent of the lessor thereof, or fail to return such property to the lessor thereof within ten days after expiration of the lease or rental period for such property stated in such written lease, he shall be deemed guilty of the larceny thereof.

(b) The fact that such person fails to return such property to the lessor thereof within ten days after the giving of written notice to such person that the lease or rental period for such property has expired, shall be prima facie evidence of intent to defraud. For purposes of this section, notice mailed by certified mail and addressed to such person at the address of the lessee stated in the lease, shall be sufficient giving of written notice under this section.

(c) The venue of prosecution under this section shall be the county or city in which such property was leased or in which such accused person last had a legal residence.

Source: § 18.1-117.1.

Article 5.

Trespass to Realty.

§ 18.2-119. Trespass after having been forbidden to do so. — If any person shall without authority of law go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, after having been

forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may be reasonably seen, he shall be guilty of a class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of §§ 18.2-132 through 18.2-136, and §§ 29-169 and 29-170 of this Code.

Source: § 18.1-173.

§ 18.2-120. Instigating, etc., such trespass by others; preventing service to persons not forbidden to trespass. — If any person shall solicit, urge, encourage, exhort, instigate or procure another or others to go upon or remain upon the lands, buildings, or premises of another, or any part, portion or area thereof, knowing such other person or persons to have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or knowing such other person or persons to have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen; or if any person shall, on such lands, buildings, premises or part, portion or area thereof prevent or seek to prevent the owner, lessee, custodian, person in charge or any of his employees from rendering service to any person or persons not so forbidden, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-173.1.

§ 18.2-121. Entering property of another for purpose of damaging it, etc. — It shall be unlawful for any person to enter the land, dwelling, outhouse or any other building of another for the purpose of damaging such property or any of the contents thereof or in any manner to interfere with the rights of the owner, user or the occupant thereof to use such property free from interference.

Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor.

Source: § 18.1-183.

§ 18.2-122. Trespassing upon grass in Capitol Square. — It shall be unlawful for any person without the permission of the Director of Engineering and Buildings to trespass upon any of the grass in the Capitol Square. Any person violating this section shall be subject to a fine of five dollars.

Source: § 2.1-95.

§ 18.2-123. Dogs not permitted at large in Capitol Square. — It shall be unlawful for any person to bring any dog, or to allow any dog over which for the time being he has control, to follow or come with him into the Capitol Square unless such dog is held in control by leash or otherwise. Any person violating this section shall be deemed guilty of a misdemeanor and shall be fined not less than one dollar nor more than ten dollars. Moreover, any dog found on the Capitol Square without its owner may be driven from the limits of the Square.

Source: § 2.1-96.

§ 18.2-124. Jurisdiction over offenses committed in Capitol Square. — The district court of the city of Richmond shall have jurisdiction to try cases of misdemeanor arising under §§ 18.2-122 and 18.2-123, and all other offenses committed in the Capitol Square of which it would have jurisdiction if committed within the corporate limits and jurisdiction of the city; and the Capitol Police, or any member thereof, shall have the same authority to arrest

and to swear out warrants for offenses committed on the Capitol Square as policemen of the city of Richmond have to arrest or to swear out warrants for offenses committed within the jurisdiction of the city.

Source: § 2.1-97.

§ 18.2-125. Trespass at night upon any cemetery. — If any person, without the consent of the owner, proprietor or custodian, go or enter in the nighttime, upon the premises, property, driveways or walks of any cemetery, either public or private, for any purpose other than to visit the burial lot or grave of some member of his family, he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-181.

§ 18.2-126. Violation of sepulture. — If a person unlawfully disinter or displace a dead human body, or any part of a dead human body, which has been deposited in any vault, grave or other burial place, he shall be guilty of a class 4 felony.

Source: § 18.1-243.

§ 18.2-127. Injuries to cemeteries, burial grounds, etc. — If any person:

(1) Wilfully and maliciously destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, or other structure placed within any cemetery, graveyard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fence, railing, or other work for the protection or ornament of any tomb, monument, gravestone, or other structure aforesaid, or of any cemetery lot within any cemetery;

(2) Wilfully or maliciously destroy, remove, cut, break, or injure any tree, shrub, or plant within any cemetery or lot of any memorial or monumental association;

(3) Wilfully or maliciously destroy, mutilate, injure, or remove and carry away any flowers, wreaths, vases, or other ornaments placed upon or around any grave, tomb, monument, or lot in any cemetery, graveyard, or other place of burial; or

(4) Wilfully obstruct proper ingress and egress to and from any cemetery or lot belonging to any memorial association,
he shall be guilty of a class 3 misdemeanor.

This section shall not apply to any work which is done by the authorities of a church or congregation in the maintenance or improvement of any burial ground or cemetery belonging to it and under its management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker or vault.

Source: § 18.1-244.

§ 18.2-128. Trespass at night upon church or school property. — It shall be unlawful for any person, without the consent of some person authorized to give such consent, to go or enter upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property.

Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor.

Source: § 18.1-182.

§ 18.2-129. Failure to leave premises of institution of higher learning when directed to do so. — Any person, whether or not a student, directed to leave the premises of any institution of higher learning by a person duly authorized to give such direction and who fails to do so shall be guilty of a class 3 misdemeanor. Each day such person remains on the premises after such direction shall constitute a separate offense.

Source: § 18.1-173.2.

§ 18.2-130. Peeping or spying into structure occupied as dwelling. — If any person shall enter upon the property of another, in the nighttime, and secretly or furtively peep through or attempt to so peep, into, through, or spy through, a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure be permanently situated or transportable and whether or not such occupancy be permanent or temporary, such person shall be guilty of a class 1 misdemeanor.

Source: § 18.1-174.

§ 18.2-131. Trespass upon licensed shooting preserve. — It shall be unlawful for any person to trespass on a licensed shooting preserve. Any person convicted of such trespass shall be guilty of a class 4 misdemeanor and shall be responsible for all damage. Owners or keepers of dogs trespassing on preserves shall be responsible for all damage done by such dogs.

Source: § 29-49.

§ 18.2-132. Trespass by hunters and fishers. — Any person who goes on the lands, waters, ponds, boats or blinds of another to hunt, fish or trap without the consent of the landowner or his agent shall be deemed guilty of a class 3 misdemeanor.

Source: § 29-165.

§ 18.2-133. When identification required. — Any person who goes on the lands, waters, ponds, boats or blinds of another to hunt, fish, or trap and wilfully refuses to identify himself when requested by the landowner or his agent so to do shall be deemed guilty of a class 4 misdemeanor.

Source: § 29-165.1.

§ 18.2-134. Trespass on posted property. — Any person who goes on the lands, waters, ponds, boats or blinds of another, upon which signs or posters prohibiting hunting, fishing or trapping have been placed, to hunt, fish or trap except with the written consent of or in the presence of the owner or his agent shall be guilty of a misdemeanor and punished by a fine of not more than two hundred fifty dollars or by confinement in jail for not more than thirty days, either or both.

Source: § 29-166.

§ 18.2-135. Destruction of posted signs; posting land of another. — Any person who shall mutilate, destroy or take down any "posted", "no hunting" or similar sign or poster on the lands or waters of another, or who shall post such sign or poster on the lands or waters of another, without the consent of the landowner or his agent, shall be deemed guilty of a class 3 misdemeanor and his hunting license shall be revoked for a period not exceeding the expiration date of such license.

Source: § 29-167.

§ 18.2-136. Right of fox and deer hunters to go on lands of another; carrying firearms or bows and arrows prohibited. — Fox hunters, when the chase begins on other lands, may follow their dogs on prohibited lands, and deer hunters, when the chase begins on other lands, may go upon prohibited lands to retrieve their dogs, but may not carry firearms or bows and arrows on their persons or in vehicles or hunt any game while thereon.

Source: § 29-168.

Article 6.

Damage to Realty and Personalty Thereon.

§ 18.2-137. Injuring, etc., any property, monument, etc. — If any person, unlawfully, but not feloniously, take and carry away, or destroy, deface or injure any property, real or personal, not his own, or break down, destroy, deface, injure or remove any monument erected for the purpose of marking the site of any engagement fought during the War between the States, or for the purpose of designating the boundaries of any city, town, tract of land, or any tree marked for that purpose, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-172.

§ 18.2-138. Injuries to public buildings, etc. — If any person wilfully and maliciously break any window or door of the Capitol, or any courthouse, house of public worship, college, school house, city or town hall, or other public building or library, or wilfully and maliciously injure or deface the Capitol, or any statuary in the Capitol, or on the Capitol Square, or in any other public buildings or on any public grounds; or wilfully and maliciously injure or deface any courthouse, house of public worship, or city or town hall, or any other public building; or wilfully and maliciously destroy or carry away any furniture belonging to, or in any of such buildings; or wilfully and unlawfully injure or deface any book, newspaper, magazine, pamphlet, map, picture, manuscript or other property belonging to any library, reading room, museum or other educational institution, or unlawfully remove the same therefrom, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-177.

§ 18.2-139. Injuries to trees, fences or herbage on grounds of Capitol, or in any public square. — If any person:

(1) Cut down, pull up, girdle or otherwise injure or destroy any tree growing in the grounds of the Capitol, or in any public square or grounds, without the consent of the Governor, or of the circuit court of the county or city in which such grounds or square is situated; or

(2) Wilfully and maliciously injure the fences or herbage of the Capitol grounds, or of any such square or grounds,

He shall be guilty of a class 3 misdemeanor.

Source: § 18.1-180.

§ 18.2-140. Destruction of trees, shrubs, etc. — It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found, growing or being upon the land of another, or upon any land reserved, set aside or maintained by the State as a public park, or as a refuge or sanctuary for wild animals, birds or fish or to deposit any trash, debris, garbage or litter thereon, without having previously obtained the permission in

writing of such other or his agent or of the superintendent or custodian of such park, refuge or sanctuary so to do, unless the same be done under the personal direction of such owner, his agent, tenant or lessee or superintendent or custodian of such park, refuge or sanctuary.

Any person violating this section shall be guilty of a class 3 misdemeanor; provided, however, that the approval of the owner, his agent, tenant or lessee, or the superintendent or custodian of such park or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit.

Source: § 18.1-178.

§ 18.2-141. Cutting or destroying trees; carrying axe, saw, etc., while hunting. — It shall be unlawful for any person while hunting for game or wildlife on the property of another to carry any axe other than a belt axe with a handle less than twenty inches, saw or other tool or instrument customarily used for the purpose of cutting, felling, mutilating or destroying trees without obtaining prior permission of the landowner. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor.

Game wardens, sheriffs and all law enforcement officers shall enforce the provisions of this section.

Source: § 18.1-179.

§ 18.2-142. Damaging caves or caverns. — (a) It shall be unlawful for any person, without the prior permission of the owner, to wilfully and knowingly break, break off, crack, carve upon, write or otherwise mark upon, or in any manner destroy, mutilate, injure, deface, mar or harm any natural material found within any cave or cavern, such as stalactites, stalagmites, helictites, anthodites, gypsum flowers or needles, flowstone, draperies, columns, or other similar crystalline mineral formations or otherwise; to kill, harm or disturb plant or animal life found therein; to discard litter or refuse therein, or otherwise disturb or alter the natural condition of such cave or cavern; or break, force, tamper with, remove, or otherwise disturb a lock, gate, door or other structure or obstruction designed to prevent entrance to a cave or cavern, without the permission of the owner thereof, whether or not entrance is gained.

(b) Any violation of this section shall be punished as a class 3 misdemeanor.

Source: § 18.1-175.1.

§ 18.2-143. Pulling down fences or leaving open gates. — If any person, without permission of the owner, pull down the fence of another and leave the same down, or, without permission, open and leave open the gate of another, or any gate across a public road established by order of court, or if any person other than the owner or owners of the lands through which a line of railroad runs open and leave open a gate at any public or private crossing of the right-of-way of a railroad, he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-176.

Article 7.

Damage to and Tampering with Property.

§ 18.2-144. Maiming, killing or poisoning animals, fowl, etc. — If any person maliciously shoot, stab, wound or otherwise cause bodily injury to, or administer poison to or expose poison with intent that it be taken by, any horse, mule, pony, cattle, swine or other livestock, of another, with intent to maim, disfigure, disable or kill the same, or if he do any of the foregoing acts to any such animal of his own with intent to defraud any insurer thereof, he shall be guilty of a class 5 felony. And if any person do any of the foregoing acts to

any fowl or to any dog under six months old or if over six months old and has been licensed as required by law, with any of the aforesaid intents, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-159.

§ 18.2-145. Protection of homing pigeons. — It shall be unlawful for any person at any time or in any manner to hunt, pursue, take, capture, wound, maim, disfigure, or kill any homing pigeon of another person, or to make use of any pit or pitfall, scaffold, cage, snare, trap, net, baited hook or similar device or drug, poison chemical or explosive, for the purpose of injuring, capturing or killing any such homing pigeon, provided that any officer, employee or agent of a city or county acting pursuant to authority of an ordinance thereof may take, capture and kill pigeons in, on and about any building or structure devoted to business, commercial or industrial purposes when any pigeons are using such premises for roosting, resting or congregating thereon; all pigeons taken upon such premises shall be conclusively deemed not to be homing pigeons or the property of any person.

Any person violating any of the foregoing provisions shall be guilty of a class 3 misdemeanor.

Source: § 18.1-160.

§ 18.2-146. Breaking, injuring, defacing, destroying or preventing the operation of vehicle, aircraft or boat. — Any person who shall individually or in association with one or more others wilfully break, injure, tamper with or remove any part or parts of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying said vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a class 1 misdemeanor.

Source: § 18.1-166.

§ 18.2-147. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions. — Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a class 1 misdemeanor, except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

Source: § 18.1-167.

§ 18.2-148. Bona fide repossession under lien. — The provisions of §§ 18.2-102, 18.2-146 and 18.2-147 shall not apply to a bona fide repossession of a vehicle, aircraft, boat or vessel by the holder of a lien on such vehicle, aircraft, boat or vessel, or by the agents or employees of such lien holder.

Source: § 18.1-168.

§ 18.2-149. Injury to hired animal, aircraft, vehicle or boat. — If any person after having rented or leased from any other person an animal, aircraft, vehicle, boat or vessel shall wilfully injure or damage the same, by hard or reckless driving or using, or by using the same in violation of any statute of this State, or allow or permit any other person so to do, or hire the same to any other person without the consent of the bailor, such person shall be guilty of a class 3 misdemeanor.

Source: § 18.1-161.

§ 18.2-150. Wilfully destroying a vessel, etc. — If any person wilfully scuttle, cast away or otherwise dispose of, or in any manner destroy, except as otherwise provided, a ship, vessel or other watercraft, with intent to injure or defraud any owner thereof or of any property on board the same, or any insurer of such ship, vessel or other watercraft, or any part thereof, or of any such property on board the same, if the same be of the value of one hundred dollars, he shall be guilty of a class 4 felony, but if it be of less value than one hundred dollars, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-170.

§ 18.2-151. Opening or carrying away pumps, etc., used for dispensing gasoline, etc. — If any person, with intent to commit larceny therefrom, break and open, or open, or carry away, any pump, tank, or other similar equipment or container used for dispensing or storing kerosene, gasoline or motor oils, he shall be guilty of a class 6 felony.

Source: § 18.1-169.

§ 18.2-152. Stealing from or tampering with parking meter, vending machine, pay telephone, etc. — Any person who, enters, forces or attempts to force an entrance into, tampers with, or inserts any part of an instrument into any parking meter, vending machine, pay telephone, money changing machine, or any other device designed to receive money, with intent to steal therefrom, shall for the first conviction thereof be guilty of a class 1 misdemeanor, and for any subsequent conviction of a violation thereof shall be guilty of a class 6 felony.

Source: § 18.1-125.1.

Article 8.

Offenses Relating to Railroads and Other Utilities.

§ 18.2-153. Obstructing or injuring canal, railroad, etc. — If any person maliciously obstruct, remove or injure any part of a canal, railroad or urban, suburban or interurban electric railway, or any lines of any electric power company, or any bridge or fixture thereof, or maliciously obstruct, tamper with, injure or remove any machinery, engine, car, trolley, supply or return wires or any other work thereof, or maliciously open, close, displace, tamper with or injure any switch, switch point, switch lever, signal lever or signal of any such company, whereby the life of any person on such canal, railroad, urban, suburban or interurban electric railway, is put in peril, he shall be guilty of a class 4 felony; and, in the event of the death of any such person resulting from such malicious act, the person so offending shall be deemed guilty of murder, the degree to be determined by the jury or the court trying the case without a jury.

If any such act be committed unlawfully, but not maliciously, the person so offending shall be guilty of a class 6 felony; and in the event of the death of any such person resulting from such unlawful act, the person so offending shall be deemed guilty of involuntary manslaughter.

Source: § 18.1-147.

§ 18.2-154. Shooting at or throwing missiles, etc., at train, car, vessel, etc. — If any person maliciously shoot at, or maliciously throw any missile at or against, any train or cars on any railroad or other transportation company or any vessel or other watercraft, or any motor vehicle or other vehicles when occupied by one or more persons, whereby the life of any person on such train or car, or on such vessel, or other watercraft, or in such motor vehicle or other vehicle, may be put in peril, the person or persons so offending shall be guilty of a class 4 felony; and, in the event of the death of any such person, resulting from such malicious shooting or throwing, the person so offending shall be deemed guilty of murder, the degree to be determined by the jury or the court trying the case without a jury. If any such act be committed unlawfully, but not maliciously, the person so offending shall be guilty of a class 6 felony; and, in the event of the death of any such person, resulting from such unlawful act, the person so offending shall be deemed guilty of involuntary manslaughter.

Source: § 18.1-152.

Note: The portion dealing with throwing missiles or shooting at occupied buildings is transferred to § 18.2-279.

§ 18.2-155. Injuring, etc., signal used by railroad. — If any person maliciously injure, destroy, molest, or remove any switchlamp, flag or other signal used by any railroad, or any line, wire, post, lamp or any other structure or mechanism used in connection with any signal on a railroad, or destroys or in any manner interferes with the proper working of any signal on a railroad, whereby the life of any person is or may be put in peril he shall be guilty of a class 4 felony; and in the event of the death of such person resulting from such malicious injuring, destroying or removing, the person so offending shall be deemed guilty of murder, the degree to be determined by the jury or the court trying the case without a jury. If such act be done unlawfully but not maliciously the offender shall be guilty of a class 1 misdemeanor, provided that in the event of the death of any such person resulting from such unlawful injuring, destroying or removing, the person so offending shall be deemed guilty of involuntary manslaughter.

Source: § 18.1-153.

§ 18.2-156. Taking or removing waste or packing from journal boxes. — If any person shall wilfully and maliciously take or remove the waste or packing from any journal box of any locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon any railroad, whether the same be operated by steam or electricity, he shall be guilty of a class 6 felony.

Source: § 18.1-151.

§ 18.2-157. Injury to fences or cattle stops along line of railroad. — Any person who shall wilfully or maliciously cut, break down, injure or destroy any fence erected along the line of any railroad for the purpose of fencing the track or depot grounds of such road, or shall break down, injure or destroy any cattle stop along the line of any railroad, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-155.

§ 18.2-158. Driving, etc., animal on track to recover damages. — If any person, with a view to the recovery of damages against a railroad company, wilfully ride, drive, or lead any animal, or otherwise contrive for any animal to go, on the railroad track of such company, and such animal is by reason thereof killed or injured, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-154.

§ 18.2-159. Trespassing on railroad track. — If any person be on the track of a railroad within one hundred yards of an approaching train otherwise than in passing over such road at a public or private crossing, or wilfully ride, drive or lead any animal, or contrive for any animal to go on such track, except in crossing as aforesaid, without the consent of the railroad company or person operating such road, he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-148.

§ 18.2-160. Trespassing upon railroad trains; how punished. — If any person, not being a passenger or employee, shall be found trespassing upon any railroad car or train of any railroad in this State, by riding on any car, or any part thereof, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person shall be guilty of a class 4 misdemeanor.

Source: § 18.1-150.

§ 18.2-161. Trespassers forbidden to jump on or off railroad cars or trains. — If any person, not being a passenger or employee, but a trespasser, shall jump on or off any railroad car or train on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person shall be guilty of a class 4 misdemeanor.

Source: § 18.1-149.

§ 18.2-162. Injury to oil, telegraph, telephone, electric, gas or water facility. — Any person who shall intentionally destroy or damage any facility which is used to furnish oil, telegraph, telephone, electric, gas or water service to the public, shall be guilty of a class 4 felony, provided that in the event the destruction or damage may be remedied or repaired for one hundred dollars or less such act shall constitute a class 3 misdemeanor.

Source: § 18.1-158.

§ 18.2-163. Tampering with metering device; diverting service. — Any person who shall tamper with any metering device incident to the facilities set forth in § 18.2-162, or otherwise intentionally prevent such a metering device from properly registering the degree, amount or quantity of such service supplied, or who shall divert such service, excepting, however, telephonic or electronic extension service not owned or controlled by any such company without authorization from the owner of such facility who or which furnishes such service to the public, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-158.1.

§ 18.2-164. Unlawful use of, or injury to, telephone and telegraph lines; copying or obstructing messages. — Any person who shall:

(1) Maliciously injure, molest, cut down or destroy any telephone or telegraph line, wire, cable or pole, or the material or property belonging thereto; or

(2) Maliciously cut, break, tap or make any connection with any telephone or telegraph line, wire, cable or instrument of any telegraph or telephone company which has legally acquired the right of way by purchase, condemnation, or otherwise; or

(3) Maliciously copy in any unauthorized manner any message, either social, business, or otherwise, passing over any telephone or telegraph line, wire or cable in this State; or

(4) Wilfully or maliciously prevent, obstruct or delay by any means or contrivance whatsoever the sending, conveyance or delivery in this State of any authorized communication by or through any telephone or telegraph line, wire or cable under the control of any telephone or telegraph company doing business in this State; or

(5) Maliciously aid, agree with, employ or conspire with any unauthorized person or persons unlawfully to do or cause to be done any of the acts hereinbefore mentioned,

Shall be guilty of a class 3 misdemeanor.

Source: § 18.1-156.

§ 18.2-165. Unlawful use of, or injury to, television or radio signals and equipment. — Any person who shall wilfully or maliciously break, injure or otherwise destroy or damage any of the posts, wires, towers or other materials or fixtures employed in the construction or use of any line of a television coaxial cable, or a mocrowave radio system, or wilfully or maliciously interfere with such structure so erected, or in any way attempt to lead from its uses or make use of the electrical signal or any portion thereof properly belonging to or in use or in readiness to be made use of for the purpose of using said electrical signal from any television coaxial cable company or microwave system or owner of such property, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-157.

§ 18.2-166. Disclosing or inducing disclosure of certain information concerning customers of telephone companies. — Any person (1) who is an employee of a telephone company, or an employee of a company which prints or otherwise handles lists of telephone customers for a telephone company and who discloses to another the names, addresses, or telephone numbers of any two or more customers of telephone service, knowing that such disclosure is without the consent of the telephone company furnishing said service; or

(2) Who knowingly induces such an employee to make such disclosure by giving, offering, or promising to such employee any gift, gratuity, or thing of value, or by doing or promising to do any act beneficial to such employee; or

(3) Who takes, copies, or compiles any list containing the aforesaid information knowing that such conduct is without the consent of the telephone company furnishing said service; or

(4) Who attempts, aids or abets another, or conspires with another, to commit any of the aforesaid acts shall be guilty of a class 3 misdemeanor.

Source: § 18.1-417.1.

§ 18.2-167. Selling or transferring certain telephonic instruments. — (a) It shall be unlawful for any person knowingly to make, sell, offer or advertise for sale, possess, or give or otherwise transfer to another any instrument, apparatus, equipment, or device or plans or instructions for making or assembling any instrument, apparatus, equipment or device which has been designed, adapted, used, or employed with the intent or for the purpose of (1) obtaining long distance toll telephone or telegraph service or the transmission of a long distance toll message, signal, or other communication by telephone or telegraph, or over telephone or telegraph facilities, without the payment of charges for any such long distance message, signal or other communication; or (2) concealing or assisting another to conceal from any supplier of telephone or telegraph service or from any person charged with the responsibility of enforcing this section, the existence or place of origin or of destination of any long distance toll message, signal, or other communication by telephone or

telegraph, or over telephone or telegraph facilities. Persons violating any provision of this section shall be guilty of a class 3 misdemeanor.

(b) Any such instrument, apparatus, equipment or device, or plans or instructions therefor, may be seized by court order or under a warrant; and, upon a final conviction of any person owning the seized materials, or having any ownership interest therein, for a violation of any provision of this section, the instrument, apparatus, equipment, device, or plans or instructions shall be ordered destroyed as contraband by the court in which the person is convicted.

Source: § 18.1-238.3.

Chapter 6.

Crimes Involving Fraud.

Article 1.

Forgery.

§ 18.2-168. Forging public records, etc. — If any person forge a public record, or certificate, return, or attestation, of any public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or utter, or attempt to employ as true, such forged record, certificate, return, or attestation, knowing the same to be forged, he shall be guilty of a class 4 felony.

Source: § 18.1-92.

§ 18.2-169. Forging, or keeping an instrument for forging, a seal. — If any person forge, or keep or conceal any instrument for the purpose of forging the seal of the Commonwealth, the seal of a court, or of any public office, or body politic or corporate in this State, he shall be guilty of a class 4 felony.

Source: § 18.1-93.

§ 18.2-170. Forging coin or bank notes. — If any person (1) forge any coin, note or bill current by law or usage in this State or any note or bill of a banking company, (2) fraudulently make any base coin, or a note or bill purporting to be the note or bill of a banking company, when such company does not exist, or (3) utter, or attempt to employ as true, or sell, exchange, or deliver, or offer to sell, exchange, or deliver, or receive on sale, exchange, or delivery, with intent to utter or employ, or to have the same uttered or employed as true, any such false, forged, or base coin, note or bill, knowing it to be so, he shall be guilty of a class 4 felony.

Source: § 18.1-94.

§ 18.2-171. Making or having anything designed for forging any writing. — If any person engrave, stamp, or cast, or otherwise make or mend, any plate, block, press, or other thing, adapted and designed for the forging and false making of any writing or other thing, the forging or false making whereof is punishable by this chapter, or if such person have in possession any such plate, block, press, or other thing, with intent to use, or cause or permit it to be used, in forging or false making any such writing or other thing, he shall be guilty of a class 4 felony.

Source: § 18.1-95.

§ 18.2-172. Forging, uttering, etc., other writings. — If any person forge any writing, other than such as is mentioned in §§ 18.2-168 and 18.2-170, to the prejudice of another's right, or utter, or attempt to employ as true, such forged writing, knowing it to be forged, he shall be guilty of a class 5 felony. Any person who shall obtain, by any false pretense or token, the signature of

another person, to any such writing, with intent to defraud any other person, shall be deemed guilty of the forgery thereof, and shall be subject to like punishment.

Source: § 18.1-96.

§ 18.2-173. Having in possession forged coin or bank notes. — If any person have in his possession forged bank notes or forged or base coin, such as are mentioned in § 18.2-170, knowing the same to be forged or base, with the intent to utter or employ the same as true, or to sell, exchange, or deliver them, so as to enable any other person to utter or employ them as true, he shall, if the number of such notes or coins in his possession at the same time, be ten or more, be guilty of a class 6 felony; and if the number be less than ten, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-97.

Article 2.

Impersonation.

§ 18.2-174. Impersonating officer. — Any person who shall falsely assume or exercise the functions, powers, duties and privileges incident to the office of sheriff, police officer, marshal, or other peace officer, or who shall falsely assume or pretend to be any such officer, shall be deemed guilty of a class 1 misdemeanor.

Source: § 18.1-311.

§ 18.2-175. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "police" shown thereon. — No person, not such an officer as is referred to in § 19.1-95, shall wear any such uniform as is designated pursuant to the provisions of such section or wear an insignia or markings containing the seal of the Commonwealth or the insignia of any such officer's uniform, nor shall any person not such an officer, or not authorized by such officer, or not authorized by the military police of the armed forces or of the national guard, or not authorized by the military police of other governmental agency, use or cause to be used on the public roads or highways of this State, any motor vehicle bearing markings with the word "police" shown thereon. Any violation of this section shall be a class 1 misdemeanor.

Source: § 18.1-312.

§ 18.2-176. Unauthorized wearing or displaying on motor vehicles of any button, insignia or emblem of certain associations or societies. — (a) No person shall wear the button or insignia of any order of police, trade union or veterans' organization or display upon a motor vehicle the insignia or emblem of any automobile club, medical society, order of police, trade union or veterans' organization or use such button, insignia or emblem to obtain aid or assistance unless entitled to wear, display or use the same under the constitution, by-laws, rules or regulations of the organization concerned.

(b) No person shall wear any Southern Cross of Honor when not entitled to do so by the regulations under which such Crosses of Honor are given.

(c) A violation of this section shall be a class 3 misdemeanor.

Source: § 18.1-410.

§ 18.2-177. Illegal use of insignia. — Any person who shall willfully wear, exhibit, display, print, or use, for any purpose, the badge, motto, button, decoration, charm, emblem, rosette, or other insignia of any such association or organization mentioned in § 2.1-74, duly registered under Article 2, Chapter 8,

Title 2.1 of this Code, unless he shall be entitled to use and wear the same under the constitution and bylaws, rules and regulations of such association or organization, shall be guilty of a class 4 misdemeanor.

Source: § 2.1-80.

Article 3.

False Pretenses.

§ 18.2-178. Obtaining money or signature, etc., by false pretense. — If any person obtain, by any false pretense or token, from any person, with intent to defraud, money or other property which may be the subject of larceny, he shall be deemed guilty of larceny thereof; or if he obtain, by any false pretense or token, with such intent, the signature of any person to a writing, the false making whereof would be forgery, he shall be guilty of a class 4 felony.

Source: § 18.1-118.

§ 18.2-179. Unlawful operation of coin box telephone, parking meter, vending machine, etc. — Any person who shall operate, cause to be operated, or attempt to operate or cause to be operated any coin box telephone, parking meter, vending machine or other machine that operates on the coin-in-the-slot principle, whether of like kind or not, designed only to receive lawful coin of the United States of America, in connection with the use or enjoyment of telephone or telegraph service, parking privileges or any other service, or the sale of merchandise or other property, by means of a slug, or any false, counterfeit, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever, not authorized by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine; or who shall obtain or receive telephone or telegraph service, parking privileges, merchandise, or any other service or property from any such coin box telephone, parking meter, vending machine or other machines, designed only to receive lawful coin of the United States of America, without depositing in or surrendering to such coin box telephone, parking meter, vending machine, or other machine lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such coin box telephone, parking meter, vending machine or other machine, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-124.

§ 18.2-180. Manufacture, etc., of slugs, etc., for such unlawful use. — Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any such coin box telephone, parking meter, vending machine or other machine operated on the coin-in-the-slot principle, designed only to receive lawful coin of the United States of America, in connection with the use of any such coin box telephone, parking meter, vending machine or other machine, or who, knowing or having reason to believe that the same is intended for such unlawful use, shall manufacture, sell, offer to sell, advertise for sale or give away any slug, device or substance whatsoever, intended or calculated to be placed or deposited in any such coin box telephone, parking meter, vending machine or other machine, shall be guilty of a class 3 misdemeanor.

The manufacture, sale, offer for sale, advertisement for sale, giving away or possession of any such slug, device or substance whatsoever, intended or calculated to be placed or deposited in any such coin box telephone, parking meter, vending machine or other machine that operates on the coin-in-the-slot principle, shall be prima facie evidence of intent to cheat or defraud within the meaning of this section and § 18.2-179.

Source: § 18.1-125.

Article 4.

Bad Check Law.

§ 18.2-181. Issuing bad checks, etc., larceny. — Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company, or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny.

Any person who, under the provisions of this section, is guilty of grand larceny shall be punishable for a class 6 felony.

The word "credit" as used herein, shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

Source: § 6.1-115.

Note: The criminal provisions of the "Bad Check Law" in Title 6.1 are transferred to Title 18.2. This note is applicable to § § 18.1-182 through 18.1-185, as well as to this section.

§ 18.2-182. Issuing bad checks on behalf of business firm or corporation in payment of wages. — Any person who shall make, draw, or utter, or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation, for the purpose of paying wages to any employee of such firm or corporation, or for the purpose of paying for any labor performed by any person for such firm or corporation, knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a class 1 misdemeanor.

The word "credit," as used herein, shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

Source: § 6.1-116.

§ 18.2-183. Issuance of bad check prima facie evidence of intent and knowledge; notice by certified or registered mail. — In any prosecution or action under the preceding sections, the making or drawing or uttering or delivery of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company or other depository unless such maker or drawer, or someone for him, shall have paid the holder thereof the amount due thereon, together with interest, and protest fees (if any), within five days after receiving written notice that such check, draft, or order has not been paid to the holder thereof. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer shall be

deemed sufficient and equivalent to notice having been received by the maker or drawer.

If such check, draft or order shows on its face a printed or written address, home, office, or otherwise, of the maker or drawer, then the foregoing notice, when sent by certified or registered mail to such address, with or without return receipt requested, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, whether such notice shall be returned undelivered or not.

When a check is drawn on a bank in which the maker or drawer has no account, it shall be presumed that such check was issued with intent to defraud, and the five-day notice set forth above shall not be required in such case.

Source: § 6.1-117.

§ 18.2-184. Presumption as to notation attached to check, draft or order. — In any prosecution or action under the preceding sections, any notation attached to a check, draft or order which is refused by the drawee because of lack of funds or credit, bearing the terms "not sufficient funds," "uncollected funds," "account closed," or "no account in this name," or words of similar import, shall be prima facie evidence that such notation is true and correct.

Source: § 6.1-117.1.

§ 18.2-185. Evidence and presumptions in malicious prosecution actions after issuance of bad check. — In any civil action growing out of an arrest under §§ 18.2-181 or 18.2-182, no evidence of statements or representations as to the status of the check, draft, order or deposit involved, or of any collateral agreement with reference to the check, draft, or order, shall be admissible unless such statements, or representations, or collateral agreement, be written upon the instrument at the time it is given by the drawer.

If payment of any check, draft, or order for the payment of money be refused by the bank, banking institution, trust company or other depository upon which such instrument is drawn, and the person who drew or uttered such instrument be arrested or prosecuted under the provisions of §§ 18.2-181 or 18.2-182, for failure or refusal to pay such instrument, the one who arrested or caused such person to be arrested and prosecuted, or either, shall be conclusively deemed to have acted with reasonable or probable cause in any suit for damages that may be brought by the person who drew or uttered such instrument, if the one who arrested or caused such person to be arrested and prosecuted, or either, shall have, before doing so, presented or caused such instrument to be presented to the depository on which it was drawn where it was refused, and then waited five days after notice, as provided in § 18.2-183, without the amount due under the provisions of such instrument being paid.

Source: § 6.1-118.

Article 5.

False Representations to Obtain Property or Credit.

§ 18.2-186. False statements to obtain property or credit. — Any person who:

(1) Shall knowingly make or cause to be made, either directly or indirectly, or through any agency, any false statement in writing, with intent that it shall be relied upon, concerning the financial condition or means or ability to pay of himself, or of any other person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting, for the

purpose of procuring, for his own benefit or for the benefit of such person, firm or corporation, the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note; or,

(2) Knowing that a false statement in writing concerning the financial condition or ability to pay of himself or of any such person, firm or corporation has been made, procures with like intent, upon the faith thereof, for his own benefit, or for the benefit of such person, firm or corporation, any such delivery, payment, loan, credit, extension, discount making, acceptance, sale or endorsement, and fails to pay for such loan, credit or benefit so procured, shall, if the value of the thing or the amount of the loan, credit or benefit procured is one hundred dollars or more, be guilty of a class 6 felony; or if the value be less than one hundred dollars, be guilty of a class 4 misdemeanor.

Source: § 18.1-119.

§ 18.2-187. Obtaining or attempting to obtain telephone or telegraph service without payment. — (a) It shall be unlawful for any person knowingly to obtain or attempt to obtain service, by the use of any false telephone number, or by the use of any telephone number of another beyond or without the authority of the person to whom such number was assigned, or by the use of any telephone number in any case where such number has been revoked and notice of revocation has been given to the person to whom assigned.

(b) It shall be unlawful for any person to obtain or attempt to obtain, by the use of any scheme, device, means or method, telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities with intent to avoid payment of lawful charges therefor.

(c) The word "notice" as used in paragraph (a) hereof shall be notice given in writing to the person to whom the number was assigned. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last known address, requiring delivery to the addressee only with return receipt requested; and the actual signing of the receipt for said mail by the addressee, shall be prima facie evidence that such notice was duly received.

(d) Any person who violates any provisions of this section shall, if the value of service, credit or benefit procured is one hundred dollars or more, be guilty of a class 5 felony; or if the value be less than one hundred dollars, be guilty of a class 3 misdemeanor.

Source: § 18.1-119.1:1.

§ 18.2-188. Defrauding hotels, motels, boardinghouses, etc. — Whoever puts up at a hotel, motel, or boardinghouse or obtains food from a restaurant or other eating house and, without having an express agreement for credit, procures food, entertainment or accommodation without paying therefor and with intent to cheat or defraud the owner or keeper of such hotel, motel, boardinghouse, restaurant or other eating house out of the pay for the same; or with intent to cheat or defraud such owner or keeper out of the pay therefor obtains credit at a hotel, motel, boardinghouse, restaurant or other eating house for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto; or with such intent obtains credit at a hotel, motel, boardinghouse, restaurant or other eating house for such food, entertainment or accommodation through any misrepresentation or false statement; or with such intent removes or causes to be removed any baggage or effects from a hotel, motel, boardinghouse, restaurant or other eating house

while there is a lien existing thereon for the proper charges due from him for fare and board furnished therein, shall be guilty of a class 2 misdemeanor.

Source: § 18.1-120.

§ 18.2-189. Defrauding garage keeper. — Whoever stores a motor vehicle with any person, firm or corporation engaged in the business of conducting a garage for the storage of motor vehicles and furnishing supplies to motor vehicles, and obtains supplies for such motor vehicle, without having an express agreement for credit, or procures storage, or supplies on account of such motor vehicle so stored, without paying therefor, and with the intent to cheat or defraud the owner or keeper of such garage; or with such intent obtains credit at such garage for such storage or supplies through any misrepresentation or false statement; or with such intent removes or causes to be removed any such motor vehicle from any such garage while there is a lien existing thereon for the proper charges due from him for storage or supplies furnished thereon, shall be guilty of a class 2 misdemeanor.

Source: § 18.1-121.

§ 18.2-190. Fraudulent misrepresentation as to breed of bull or cattle. — Any person who, in the sale, gift or transfer, of any bull or cattle, knowingly shall make any false representation that such bull is registered, or entitled to registration, in some recognized standard and accredited herd of cattle, or three-quarters blood of such breed, or that such cattle are from such a herd or breed of cattle, shall be guilty of a class 1 misdemeanor.

Source: §§ 18.1-185 and 18.1-186.

Note: These sections have been combined and rewritten. It appears to be a common practice among herdsmen to import unregistered bulls in order to improve the quality of their beef cattle. Protection is not needed against such importation but against false representations of pedigree in sales.

Article 6.

Offenses Relating to Credit Cards.

§ 18.2-191. Definitions. — The following words and phrases as used in this article, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) Cardholder. — "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(2) Credit card. — "Credit card" means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit.

(3) Expired credit card. — "Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

(4) Issuer. — "Issuer" means the business organization or financial institution or its duly authorized agent which issues a credit card.

(5) Receives. — "Receives" or "receiving" means acquiring possession or control or accepting as security for a loan.

(6) Revoked credit card. — "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

Source: § 18.1-125.2.

§ 18.2-192. Credit card theft. — (1) A person is guilty of credit card theft when:

(a) He takes, obtains or withholds a credit card from the person, possession, custody or control of another without the cardholder's consent or who, with knowledge that it has been so taken, obtained or withheld, receives the credit card with intent to use it or sell it, or to transfer it to a person other than the issuer or the cardholder; or

(b) He receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder; or

(c) He, not being the issuer, sells a credit card or buys a credit card from a person other than the issuer; or

(d) He, not being the issuer, during any twelve-month period, receives credit cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute a violation of § 18.2-194 and paragraph (c) of subdivision (1) of this section.

(2) Credit cards theft is grand larceny.

Source: § 18.1-125.3.

§ 18.2-193. Credit card forgery. — (1) A person is guilty of credit card forgery when:

(a) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely makes or falsely embosses a purported credit card or utters such a credit card; or

(b) He, not being the cardholder or a person authorized by him, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a credit card.

(2) A person falsely makes a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued.

(3) A person falsely embosses a credit card when, without the authorization of the named issuer, he completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder. Conviction of credit card forgery shall be punishable as a class 5 felony.

Source: § 18.1-125.4.

§ 18.2-194. Unauthorized possession of two or more signed credit cards. — When a person, other than the cardholder or a person authorized by him, possesses two or more credit cards which are signed, such possession shall be prima facie evidence that said cards were obtained in violation of paragraph (b) of subdivision (1) of § 18.2-193.

Source: § 18.1-125.5.

§ 18.2-195. Credit card fraud. — (1) A person is guilty of credit card fraud

when, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of § 18.2-192 or a credit card which he knows is forged, expired or revoked; or

(b) Obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or

(c) Obtains control over a credit card as security for debt.

(2) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, is guilty of a credit card fraud when, with intent to defraud the issuer or the cardholder, he

(a) Furnishes money, goods, services or anything else of value upon presentation of a credit card obtained or retained in violation of § 18.2-192, or a credit card which he knows is forged, expired or revoked; or

(b) Fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished.

Conviction of credit card fraud is punishable as a class 1 misdemeanor if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed one hundred dollars in any six-month period; conviction of credit card fraud is punishable as a class 6 felony if such value exceeds one hundred dollars in any six-month period.

Source: § 18.1-125.6.

§ 18.2-196. Criminal possession of credit card forgery devices. — (1) A person is guilty of criminal possession of credit card forgery devices when:

(a) He is a person other than the cardholder and possesses two or more incomplete credit cards, with intent to complete them without the consent of the issuer; or

(b) He possesses, with knowledge of its character, machinery, plates or any other contrivance designed to reproduce instruments purporting to be credit cards of an issuer who has not consented to the preparation of such credit cards.

(2) A credit card is incomplete if part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted or written upon.

Conviction of criminal possession of credit card forgery devices is punishable as a class 6 felony.

Source: § 18.1-125.7.

§ 18.2-197. Criminally receiving goods and services fraudulently obtained. — A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services or anything else of value obtained in violation of subdivision (1) of § 18.2-195 with the knowledge or belief that the same were obtained in violation of subdivision (1) of § 18.2-195.

Conviction of criminal receipt of goods and services fraudulently obtained is punishable as a class 1 misdemeanor if the value of all money, goods, services and anything else of value, obtained in violation of this section, does not exceed one hundred dollars in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as a class 6 felony if such value exceeds one hundred dollars in any six-month period.

Source: § 18.1-125.8.

§ 18.2-198. Obtaining airline, railroad, steamship, etc., ticket at discount price. — A person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company from other than an apparent agent of such company which was acquired in violation of subdivision (1) of § 18.2-195 without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances constituting a violation of subdivision (1) of § 18.2-195.

Source: § 18.1-125.9.

§ 18.2-199. Penalties for violation of article. — Persons violating any provision of this article for which no other specific punishment is provided for shall be guilty of a class 6 felony.

Source: § 18.1-125.10.

Article 7.

Miscellaneous False and Fraudulent Acts.

§ 18.2-200. Failure to perform promise to deliver crop, etc., in return for advances. — If any person obtain from another an advance of money, merchandise or other thing, upon a promise in writing that he will send or deliver to such other person his crop or other property, and fraudulently fail or refuse to perform such promise, and also fail to make good such advance, he shall be deemed guilty of the larceny of such money, merchandise or other thing.

Source: § 18.1-113.

§ 18.2-201. Advances secured by fraudulent promise to perform agricultural labor. — If any person enter into a contract of employment, oral or written, for the performance of personal service to be rendered within one year, in and about the cultivation of the soil, and, at any time during the pendency of such contract, thereby obtain from the landowner, or the person so engaged in the cultivation of the soil, advances of money or other thing of value under such contract, with intent to injure or defraud his employer, and fraudulently refuses or fails to perform such service or to refund such money or other thing of value so obtained, he shall be guilty of a class 3 misdemeanor. But no prosecution hereunder shall be commenced more than sixty days after the breach of such contract.

Source: § 18.1-114.

§ 18.2-202. False statements by purchaser of real property as to use for personal residence. — It shall be unlawful for any purchaser falsely to represent in writing in any contract for the purchase of real estate that the property referred to in such contract is intended for use as the personal residence of such purchaser. Any person who violates any provision of this section shall be guilty of a class 3 misdemeanor.

Source: § 18.1-119.2.

§ 18.2-203. False statement or willful overvaluation of property for purpose of influencing lending institution. — Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of any lending institution licensed under federal law or authorized to transact business under the laws of this State upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-119.3.

§ 18.2-204. False statement for the purpose of defrauding an industrial sick benefit company. — Any agent, physician or other person who shall knowingly or willfully make any false or fraudulent statement or representation of any material fact:

(1) In or with reference to any application for insurance in any industrial sick benefit company licensed, or which may be licensed, to do business in this State,

(2) As to the death or disability of a policy or certificate holder in any such company,

(3) For the purpose of procuring or attempting to procure the payment of any false or fraudulent claim against any such company, or

(4) For the purpose of obtaining or attempting to obtain any money from or benefit in any such company,

Shall be guilty of a class 3 misdemeanor.

Any such person who shall willfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a policy or certificate holder in any such company for the purpose of procuring payment of a benefit named in the policy or certificate of such holder, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury.

Source: § 18.1-122.

§ 18.2-205. False pretense in obtaining registration of cattle and other animals and giving false pedigree. — Every person who by any false pretense shall obtain from any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals the registration of any animal in the herd register or other register of any such club, association, society or company, or a transfer of any such registration, and every person who shall knowingly give a false pedigree of any animal shall be guilty of a class 3 misdemeanor.

Source: § 18.1-123.

§ 18.2-206. Procuring an animal, aircraft, vehicle or boat with intent to defraud. — If any person procure any such animal, aircraft, vehicle, boat or vessel mentioned in § 18.2-149 by fraud or by misrepresenting himself as some other person or with the intent to cheat or defraud such other person, he shall be guilty of a class 1 misdemeanor. The failure to pay the rental for or damage to such animal, aircraft, vehicle, boat or vessel, or absconding without paying such rental or damage, shall be prima facie evidence of the intent to defraud at the time of renting or leasing such animal, aircraft, vehicle, boat or vessel.

Source: § 18.1-162.

§ 18.2-207. Making false entry, etc., in marriage register, etc. — If any clerk of a court, commissioner of the revenue, physician, surgeon, medical examiner or minister celebrating a marriage, or clerk or keeper of the records of any religious society, shall, in any book, register, record, certificate or copy which such person is by Title 20 required to keep, make, or give, knowingly make any false, erroneous, or fraudulent entry, record, registration, or written statement, he shall, for every such offense, be guilty of a class 3 misdemeanor.

Source: § 18.1-98.

§ 18.2-208. Making false statement, etc., for marriage record, etc. — If any person, upon whose information or statement any record or registration may lawfully be made under Title 20, knowingly give any false information, or make any false statement to be used for the purpose of making any such record or registration, he shall, for every such offense, be guilty of a class 4 misdemeanor.

Source: § 18.1-99.

§ 18.2-209. False publications. — Any person who knowingly and wilfully states, delivers or transmits by any means whatever to any publisher, or employee of a publisher, of any newspaper, magazine, or other publication, any false and untrue statement concerning any person or corporation, with intent that the same shall be published, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-407.

§ 18.2-210. Stamping, etc., on newspapers, any word, etc., to cause belief it was done by publisher; circulating such newspapers. — No person, without first obtaining the consent of the publisher so to do, shall affix to, or place or insert in, or print, stamp or impress upon any newspaper or any part thereof, after the same shall have been issued for circulation by the publisher thereof, any word, figure, design, picture, emblem or advertisement with intent to cause, or which when so affixed, placed, inserted, printed, stamped or impressed may cause, the public to believe that such word, figure, design, picture, emblem or advertisement was affixed, placed, printed, inserted, stamped or impressed in and upon such newspaper by the publisher of the same as a part thereof.

No person shall knowingly circulate, distribute or sell, or cause to be circulated, distributed or sold, any newspaper upon which has been so affixed, placed, inserted, printed, stamped or impressed any word, figure, design, picture, emblem or advertisement in violation of the terms hereof.

Any person violating the provisions hereof shall be guilty of a class 4 misdemeanor. Each violation shall constitute a separate offense.

Source: § 18.1-409.

§ 18.2-211. Unlawful use of words "Official Tourist Information" or similar language. — It shall be unlawful for any person, firm or corporation in this State to use the words "Official Tourist Information" or "Official Information Service" or other similar language for the purpose of informing tourists, motorists and other persons that the information offered is free of charge, or is sponsored by or offered under the authority of the State of Virginia or any department or agency thereof or by any municipality or any chamber of commerce or any civic agency or group of this or any other State, or the District of Columbia. Any person, firm or corporation disseminating information as contemplated in this section must state on any signboards, billboards, or other similar signs in large, easily read and legible letters, and on any advertising or other publicity media, the names of the persons, firms or

corporations represented or from whom any remuneration whatsoever was received. Nothing in this section shall be construed to prohibit or affect the giving or advertising of "official tourist information" or other such service by gasoline service stations or other organizations which offer such information without a charge and without any inducement to purchase any services or products.

Any person, firm or corporation violating any provisions of this section shall be guilty of a class 3 misdemeanor.

Source: § 18.1-408.

§ 18.2-212. Calling or summoning ambulance or fire-fighting apparatus without just cause. — Any person who without just cause therefor, calls or summons, by telephone or otherwise, any ambulance, or fire-fighting apparatus, shall be deemed guilty of a class 1 misdemeanor.

Source: § 18.1-412.

§ 18.2-212.1. Unlawful for person not blind or incapacitated to carry white, red-tipped white or metallic cane. — It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red. Any person violating any provisions of this section shall be guilty of a class 4 misdemeanor.

Source: §§ 46.1-238 and 46.1-239.

§ 18.2-213. Simulation of warrants, processes, writs and notices. — Any person who, for the purpose of collecting money, shall knowingly deliver, mail, send or otherwise use or cause to be used any paper or writing simulating or intended to simulate any warrant, process, writ, notice of execution lien or notice of motion for judgment shall be guilty of a class 4 misdemeanor.

Source: § 18.1-313.

Article 8.

Misrepresentations and Other Offenses Connected with Sales.

§ 18.2-214. Changing or removing, etc., trademarks, identification marks, etc. — Any person, firm, association or corporation who or which intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who causes to be removed, defaced, altered, changed, destroyed or obliterated in any manner or way any trademark, distinguishment or identification number, serial number or mark on or from any article or device, in order to secrete its identification with intent to defraud, shall be guilty of a class 1 misdemeanor.

Source: § 59.1-42.

Note: The ensuing sections, 18.2-214 through 18.2-246, providing criminal punishment for misrepresentations in connection with certain sales, originally were in Title 18.1, but in 1968 were transferred to Title 59.1, comprising §§ 59.1-42 through 59.1-68.1. These sections are being transferred to Title 18.2.

§ 18.2-215. Removal or alteration of identification numbers on household electrical appliances; possession of such appliances for purposes of resale. — No person, firm, association or corporation, either individually or in association with one or more other persons, firms, associations or corporations shall remove, change or alter the serial number or other identification number stamped upon, cut into or attached as a permanent part of any household or

electrical or electronic appliance where such number was stamped upon, cut into or attached to such appliance by the manufacturer thereof.

No person, firm, association or corporation shall knowingly have in his or its possession for purposes of resale a household or electrical or electronic appliance, the serial number or other identification number of which has been removed, changed or altered.

Any person, firm, association or corporation violating the provisions of this section shall be guilty of a class 1 misdemeanor.

Source: § 59.1-43.

§ 18.2-216. Untrue, deceptive or misleading advertising. — Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or other publications, or in the form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding merchandise, securities, service, land, lot or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a class 1 misdemeanor. The words "untrue, deceptive and misleading," as used in this section, shall be construed as including the advertising in any manner by any person of any goods, wares or merchandise as a bankrupt stock, receiver's stock or trustee's stock, if such stock contains any goods, wares or merchandise put therein subsequent to the date of the purchase by such advertiser of such stock, and if such advertisement of any such stock fail to set forth the fact that such stock contains other goods, wares or merchandise put therein, subsequent to the date of the purchase by such advertiser of such stock in type as large as the type used in any other part of such advertisement, including the caption of the same, it shall be a violation of this section.

Source: § 59.1-44.

§ 18.2-217. Advertising merchandise, etc., for sale with intent not to sell at price or terms advertised; prima facie evidence of violation. — (a) Any person, firm, corporation or association who in any manner advertises or offers for sale to the public any merchandise, goods, commodity, service or thing with intent not to sell, or with intent not to sell at the price or upon the terms advertised or offered, shall be guilty of a class 1 misdemeanor.

(b) In any prosecution or civil action under this section, the refusal by any person, firm, corporation or association or any employee, agent or servant thereof to sell, or the refusal to sell at the price or upon the terms advertised or offered, any merchandise, goods, commodity, service or thing advertised or offered for sale to the public, shall be prima facie evidence of a violation of this section; provided, that this paragraph shall not apply when it is clearly stated in the advertisement or offer by which such merchandise, goods, commodity, service or thing is advertised or offered for sale to the public, that the advertiser or offeror has a limited quantity or amount of such merchandise, goods, commodity, service or thing for sale, and the advertiser or offeror at the time of such advertisement or offer did in fact have at least such quantity or amount for sale.

Source: § 59.1-45.

§ 18.2-218. Failure to indicate goods, etc., are "seconds," "irregulars," secondhand, etc. — Any person, firm, corporation or association who in any manner knowingly advertises or offers for sale to the public any merchandise, goods, commodity or thing which is defective, blemished, secondhand or used, or which has been designated by the manufacturer thereof as "seconds," "irregulars," "imperfects," "not first class," or words of similar import without clearly and unequivocally indicating in the advertisement or offer of the merchandise, goods, commodity or thing or the articles, units or parts, thereof so advertised or offered for sale to the public is defective, blemished, secondhand or used or consists of "seconds," "irregulars," "imperfects" or "not first class," shall be guilty of a class 1 misdemeanor.

Source: § 59.1-46.

§ 18.2-219. Advertising former or comparative price of merchandise, etc. — No person, firm, corporation or association shall in any manner knowingly advertise a former or comparative price of the merchandise, goods, commodity, service or thing advertised unless such price is the current price at or above which substantial sales of merchandise substantially of the same kind, quality, quantity and with substantially the same service are made in the offeror's or advertiser's trade area or was the price at which the merchandise, etc., of substantially the same kind, quality, quantity and with substantially the same service was openly and actively offered for sale by the offeror or advertiser for a period of at least thirty consecutive days within the four months immediately next preceding the date of the advertisement, honestly, in good faith and not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based. This section shall not be construed to prohibit the advertisement of any former or comparative price when the date on which substantial sales were made at the former or comparative price so advertised is clearly and conspicuously stated in the advertisement.

For the purposes of this section, "substantial sales" shall mean a substantial aggregate volume of sales of such merchandise at or above the advertised comparative price in the advertiser's trade area.

Violation of the provisions of this section are punishable as a class 1 misdemeanor.

Source: § 59.1-47.

§ 18.2-220. Use of word "wholesale" or "wholesaler". — Any person, firm, corporation or association who in any manner in any advertisement or offer for sale to the public of any merchandise, goods, commodity or thing uses the words "wholesale" or "wholesaler" to represent or describe the nature of its business shall be guilty of a class 1 misdemeanor, unless such person, firm, corporation or association is actually engaged in selling at wholesale the merchandise, goods, commodity or thing advertised or offered for sale.

Source: § 59.1-48.

§ 18.2-221. Advertising new or used automobiles or trucks. — Any person, firm, corporation or association engaged in selling new or used automobiles or trucks to the public shall be guilty of a class 1 misdemeanor if he or it in any manner advertises or offers for sale to the public any such automobile or truck (a) without stating in such advertisement or offer the make, year model, body style, manufacturer's series and number of cylinders of such automobile or truck; (b) if reference is made to equipment, without itemizing in such advertisement or offer the optional equipment physically attached to the automobile or truck and stating whether each item is included in the price; (c) if the manufacturer's suggested retail price is stated, without stating in such

advertisement or offer whether such price is an F.O.B. factory or delivered price; and (d) if a price other than the manufacturer's price is stated, without stating in such advertisement or offer whether it is the cash, delivered price.

Source: § 59.1-49.

§ 18.2-222. Use of names "Army," "Government," etc., prohibited; misrepresentation as to source of merchandise. — It shall be unlawful for any person, firm, corporation or association, not an agency or instrumentality of the United States government, selling or offering for sale goods, wares or merchandise, to use or cause or permit to be used in the corporate or trade name, or description of the seller or the place where the goods, wares or merchandise are offered for sale, any of the following words or expressions, viz., "Army," "Navy," "Marine Corps," "Marines," "Coast Guard," "Government," "Post Exchange," "P-X," or "G.I."

No person, firm, corporation or association selling or offering for sale any article or merchandise, shall in any manner represent, contrary to fact, that the article was made for, or acquired directly or indirectly from, the United States government or its military or naval forces or any agency of the United States government, or that it has been disposed of by the United States government.

Any person, firm, corporation or association violating any provision of this section shall be guilty of a class 3 misdemeanor.

Source: § 59.1-53.

§ 18.2-223. "Going out of business" sales; permit required. — It shall be unlawful for any person to advertise, or conduct, a sale for the purpose of discontinuing a retail business, or to modify the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, unless such person obtains a permit to conduct such sale from the city, town or county, or from each city, town or county, wherein such sale is to be conducted.

A violation of the provisions of this section shall be punishable as a class 1 misdemeanor.

Source: § 59.1-53.1.

§ 18.2-224. Same; counties, cities and towns to issue permits; inspections; application for permit; duration; fee. — Every county, town and city shall issue permits to retail merchants for special sales as required by § 18.2-223 upon the application of such merchant and shall inspect the advertisement and conducting of such sale to insure that it is being advertised and conducted in conformity with the required permit.

All applications for special sale permits shall be accompanied by an inventory of all goods which are to be offered for sale during the sale and only the goods specified in the inventory list may be advertised at a reduced price or sold at a reduced price during the sale period.

Each special sale permit shall be valid for a period of no longer than thirty days, and any extension of that time shall constitute a new special sale and shall require an additional permit.

Each county, town and city is authorized to charge a fee for the issuance of special sale permits. Such fee shall not exceed fifteen dollars for each permit.

Source: § 59.1-53.2.

§ 18.2-225. Misrepresentations as to agricultural products. — Misrepresentation by advertising in the press or by radio or by television, or misrepresentation by letter, statement, mark representing grade, quality or condition, label or otherwise in handling, selling, offering or exposing for sale any agricultural commodities is hereby prohibited.

Any person, firm, association or corporation who shall violate any of the provisions of this section shall be guilty of a class 3 misdemeanor.

The Director of the Division of Markets, with the approval of the Commissioner of Agriculture and Commerce, may, in his discretion, cause prosecutions for violations of this section to be instituted through the attorneys of the Commonwealth of this State, or otherwise, in counties or cities of the State where in his opinion violations of this section are found.

Source: § 59.1-54.

§ 18.2-226. Fraud and misrepresentation in sale of liquid fuels, lubricating oils and similar products. — It shall be unlawful for any person, firm, association or corporation, to store, sell, expose for sale or offer for sale any liquid fuels, lubricating oils or other similar products, in any manner whatsoever, so as to deceive or tend to deceive the purchaser as to the nature, quality and identity of the product so sold or offered for sale.

Source: § 59.1-55.

§ 18.2-227. Same; sale from pump indicating other brand. — It shall be unlawful for any person, firm, association or corporation to store, keep, expose for sale, offer for sale or sell, from any tank or container, or from any pump or other distributing device or equipment, any other liquid fuels, lubricating oils or other similar products than those indicated by the name, trade name, symbol, sign or other distinguishing mark or device of the manufacturer or distributor, appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed.

Source: § 59.1-56.

§ 18.2-228. Same; imitating indicia of other brands. — It shall be unlawful, for any person, firm, association or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of liquid fuels, lubricating oils and similar products are generally marketed.

Source: § 59.1-57.

§ 18.2-229. Same; false trade name or mixing brands. — It shall be unlawful for any person, firm, association or corporation to expose for sale, offer for sale or sell, under any trademark or trade name in general use, any liquid fuels, lubricating oils or other like products, except those manufactured or distributed by the manufacturer or distributor marketing liquid fuels, lubricating oils or other like products under such trademark or trade name, or to substitute, mix or adulterate the liquid fuels, lubricating oils or other similar products sold, offered for sale or distributed under such trademark or trade name.

Source: § 59.1-58.

§ 18.2-230. Same; assisting in violation of §§ 18.2-226 through 18.2-229. — It shall be unlawful for any person, firm, association or corporation to aid or assist any other person, firm, association or corporation in the violation of the provisions of §§ 18.2-226 through 18.2-229 by depositing or delivering into any tank, receptacle or other container any other liquid fuels, lubricating oils or

like products than those intended to be stored therein and distributed therefrom, as indicated by the name of the manufacturer or distributor or the trademark or trade name of the product displayed on the container itself, or on the pump or other distributing device used in connection therewith.

Source: § 59.1-59.

§ 18.2-231. Same; label required. — There shall be firmly attached to or painted at or near the point of outlet from which lubricating oil is drawn or poured out for sale or delivery a sign or label consisting of the word or words in letters not less than one inch in height comprising the brand or trade name of such lubricating oil. But if any lubricating oil shall have no brand or trade name, the above sign or label shall consist of the words "lubricating oil, no brand."

Source: § 59.1-60.

§ 18.2-232. Same; punishment for violation of §§ 18.2-226 through 18.2-231. — Any person, firm, association or corporation or any officer, agent or employee thereof who shall violate any provision of §§ 18.2-226 through 18.2-231, shall be guilty of a class 3 misdemeanor; and a second or any subsequent offense shall be punishable as a class 1 misdemeanor.

Source: § 59.1-61.

§ 18.2-233. Sale of goods marked "sterling" and "sterling silver". — A person who makes or sells or offers to sell or dispose of or has in his possession with intent to sell or dispose of any article of merchandise marked, stamped or branded with the words "sterling" or "sterling silver," or encased or enclosed in any box, package, cover or wrapper, or other thing in or by which such article is packed, enclosed or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark or trademark indicating or denoting by such marking, stamping, branding, engraving or printing that such article is silver, sterling silver or solid silver, unless nine hundred and twenty-five one-thousandths part of the component parts of the metal of which such article is manufactured is pure silver, shall be guilty of a class 2 misdemeanor.

Source: § 59.1-62.

§ 18.2-234. Sale of goods marked "coin" and "coin silver". — A person who makes or sells or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with words "coin" or "coin silver," or encased or enclosed in any box, package, cover, wrapper or other thing in or by which such article is packed, enclosed, or otherwise prepared for sale or disposition, having thereon any engraving or printed label, stamp, imprint, mark or trademark indicating or denoting by such marking, stamping, branding, engraving or printing that such article is coin or coin silver, unless nine hundred one-thousandths part of the component parts of the metal of which such article is manufactured is pure silver, shall be guilty of a class 2 misdemeanor.

Source: § 59.1-63.

§ 18.2-235. Regulating sale of merchandise made of gold. — Any person who marks or sells or offers to sell or dispose of or has in his possession with intent to sell or dispose of any article of merchandise made of gold of a less carat of fineness than is stamped or marked on it or of a less carat of fineness than is engraved, stamped or imprinted on the tag, card, box, label, package, wrapper, cover or other thing in or by which such article is packed, enclosed or otherwise prepared for sale or disposition shall be guilty of a class 2 misdemeanor.

Source: § 59.1-64.

§ 18.2-236. Regulating sale of kosher meat and meat preparations. — Any person, who, with intent to defraud, sells or exposes for sale any meat or meat preparation, and falsely represents the same: (1) to be kosher, whether such meat or meat preparation be raw or prepared for human consumption, or (2) as having been prepared under, and of a product or products sanctioned by, the orthodox Hebrew religious requirements; or who, with like intent, falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language, shall be guilty of a class 1 misdemeanor.

Source: § 59.1-65.

§ 18.2-237. Buying, etc., certain secondhand materials; intent; possession. — If any person buy or receive secondhand grate baskets, keys, bells and bell fixtures, gas fixtures, water fixtures, water pipes, gas pipes, or any part of such fixtures or pipes with intent to defraud, he shall be guilty of a class 2 misdemeanor. Possession of any such secondhand baskets, keys, bells and bell fixtures, water fixtures, gas fixtures, water pipes, gas pipes, or any part of such fixtures or pipes if bought or received from any other person than the manufacturer thereof or his authorized agent or the owner thereof shall be prima facie evidence of such intent.

Source: § 59.1-66.

§ 18.2-238. Buying, etc., pig iron, etc., with intent to defraud; possession evidence of intent.—If any person buy or receive pig iron or railroad, telephone, telegraph, coal mining, industrial, manufacturing or public utility iron, brass, copper, metal or any composition thereof with intent to defraud, he shall be guilty of a class 6 felony. Possession of any pig iron or railroad, telephone, telegraph, coal mining, industrial, manufacturing or public utility iron, brass, copper, metal or any composition thereof, if bought or received from any other person than the manufacturer thereof or his authorized agent or of a regularly licensed dealer therein, shall be prima facie evidence of such intent.

Source: § 59.1-67.

§ 18.2-239. Pyramid promotional schemes; misdemeanor; definitions; contracts void. — Every person who contrives, prepares, sets up, operates, advertises or promotes any pyramid promotional scheme shall be guilty of a class 1 misdemeanor. For the purposes of this section:

(a) "Pyramid promotional scheme" means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program;

(b) "Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme; and

(c) "Promotes" shall mean inducing one or more other persons to become a participant.

All contracts and agreements, now existing or hereafter formed, whereof the whole or any part of the consideration is given for the right to participate in pyramid promotional scheme programs, are against public policy, void and unenforceable.

Source: §§ 59.1-67.1 and 59.1-67.2.

§ 18.2-240. Same; injunction. — Any Commonwealth's attorney may petition a court of competent jurisdiction to enjoin the further prosecution of

any pyramid promotional scheme as defined in § 18.2-239, and to appoint receivers to secure and distribute in an equitable manner any assets received by any participant as a result of such scheme, any such distribution to effect reimbursement, to the extent possible, for uncompensated payments made to become a participant in the scheme. The procedure in any such suit shall be similar to the procedure in other suits for equitable relief, except that no bond shall be required upon the granting of either a temporary or permanent injunction therein. Any person who organizes an endless chain scheme and, either directly or through an agent, promotes such scheme within the Commonwealth shall be deemed subject to the personal jurisdiction of such court of competent jurisdiction under chapter 4.1 (§ 8-81.1 et seq.) of Title 8, and shall be liable for reasonable costs and attorneys' fees in such suit.

Source: § 59.1-67.3.

§ 18.2-241. Acceptance of promissory notes in payment for food sold at retail. — As used in this section, "food" includes food, groceries and beverages, for human consumption. "Retailer" means a person who sells food for consumption and not for resale.

It shall be unlawful for any retailer to accept, in payment for any food sold by him to a customer, a promissory note or notes for an amount in excess of twice the sales price of food delivered by him to the customer. As used in this section the word "delivered" means that actual physical delivery into the exclusive custody and control of the customer is made within seven days of the receipt of the note by the seller.

Any person who violates the provisions of this section shall be guilty of a class 3 misdemeanor.

Source: § 59.1-68.

§ 18.2-242. Use of games, lotteries, etc., for promoting sale of certain products. — (a) No retail establishment in this State shall use any game, contest, lottery or other scheme or device, whereby a person or persons may receive gifts, prizes or gratuities as determined by chance for the purpose of promoting, furthering or advertising the sale of any product or products having both a federal and State excise tax placed upon it, and the fact that no purchase is required in order to participate in such game, contest, lottery or scheme shall not exclude such game, contest, lottery or scheme from the provisions of this section.

(b) Any person violating the provision of this section shall be guilty of a class 3 misdemeanor.

Source: § 59.1-68.01.

§ 18.2-243. When issuer or distributor of advertisements not guilty of violation; inadvertent error. — A person, firm, corporation or association who or which, for compensation, issues or distributes any advertisement or offer, written, printed, oral or otherwise, in reliance upon the copy or information supplied him by the advertiser or offeror, shall not be deemed to have violated the provisions of this article, nor shall an inadvertent error on the part of any such person, firm, corporation or association be deemed a violation of such provisions.

Source: § 59.1-51.

§ 18.2-244. Right to select clientele or customers not affected. — Nothing in this article shall be deemed to impair the right of any person, firm, corporation or association to select its clientele or customers.

Source: § 59.1-52.

§ 18.2-245. Enjoining violation of this article. — (a) Any person, firm, corporation or association who violates any one or more of the sections in this article, may be enjoined by any court of competent jurisdiction notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall not be necessary that damages be alleged or proved.

(b) Actions for injunctive relief under this section may be brought by the Commonwealth's attorneys of this State in the name of the Commonwealth of Virginia upon their own complaint or upon the complaint of any person, firm, corporation or association. The bringing of an action under this section shall not prevent the institution or continuation of criminal proceedings against the same defendant or defendants.

Source: § 59.1-50.

§ 18.2-246. Penalty in general for violations. — Unless otherwise provided, any person who shall violate any provision of any section in this article shall be guilty of a class 1 misdemeanor.

Source: § 59.1-68.1.

Chapter 7.

Crimes Involving Health and Safety.

Article 1.

Drugs.

§ 18.2-247. Use of terms "controlled substances" and "Schedules I, II, III, IV, V and VI" in Title 18.2. — Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in The Drug Control Act, Chapter 15.1 of Title 54 of this Code.

Source: New.

Note: The criminal punishment aspects of The Drug Control Act, Chapter 15.1 of Title 54, are transferred to Title 18.2 with appropriate references to the regulatory features of The Drug Control Act. This note is applicable also to § 18.2-248 and §§ 18.2-250 through 18.2-263.

§ 18.2-248. Penalties for manufacture, sale, gift, distribution or possession of a controlled drug. — Except as authorized in The Drug Control Act, Chapter 15.1 of Title 54 of this Code, it shall be unlawful for any person to manufacture, sell, give, distribute or possess with intent to manufacture, sell, give or distribute a controlled substance.

(a) Any person who violates this section with respect to a controlled substance classified in Schedules I, II or III shall upon conviction be imprisoned for not less than five nor more than forty years and fined not more than twenty-five thousand dollars; provided, that if such person prove that he gave, distributed or possessed with intent to give or distribute a controlled substance classified in Schedule I or II other than marijuana only as an accommodation to another individual and not with intent to profit thereby nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be guilty of a class 5 felony; and provided further, that if such person prove that he gave, distributed or possessed with intent to give or distribute marijuana or a controlled substance classified in Schedule III only as an accommodation to another individual and not with intent to profit thereby nor to induce the

recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he shall be guilty of a class 1 misdemeanor.

Provided, further, that if the violation of the provisions of this article consist of the filling by a pharmacist of the prescription of a person authorized under this article to issue the same, which prescription has not been received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact received by the pharmacist within one week of the time of filling the same, or if such violation consists of a request by such authorized person for the filling by a pharmacist of a prescription which has not been received in writing by the pharmacist and such prescription is, in fact, written at the time of such request and delivered to the pharmacist within one week thereof, either such offense shall constitute a class 4 misdemeanor.

(b) Any person who violates this section with respect to a controlled substance classified in Schedules IV, V or VI shall be guilty of a class 1 misdemeanor.

Source: § 54-524.101:1.

§ 18.2-249. Seizure and forfeiture of property used in connection with illegal manufacture, sale or distribution of controlled substances. — All money, medical equipment, office equipment, laboratory equipment, motor vehicle or other conveyance, and all other personal property of any kind or character, used in connection with the illegal manufacture, sale or distribution of controlled substances in violation of § 18.2-248(a), shall be forfeited to the Commonwealth and may be seized by an officer to be disposed of in the same manner as provided for the disposition of motor vehicles confiscated for illegally transporting alcoholic beverages and all of the provisions specified in § 4-56 of this Code shall apply mutatis mutandis.

The agency seizing the motor vehicle or other conveyance shall be permitted the use and operation of the motor vehicle or other conveyance for a period of one hundred eighty days, after court forfeiture, for the investigation of narcotics and controlled substances in the State of Virginia by the agency seizing the motor vehicle or other conveyance. The agency using or operating each motor vehicle shall have insurance on each vehicle used or operated for liability and property damage.

Source: § 18.1-346.

§ 18.2-250. Possession of controlled substances unlawful. — It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by The Drug Control Act.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of premises or vehicle upon or in which a controlled substance was found shall not create a presumption that such person either knowingly or intentionally possessed such controlled substance.

(a) Any person who violates this section with respect to any controlled substance classified in Schedules I or II of The Drug Control Act other than marihuana shall be guilty of a class 5 felony.

(b) Any person who violates this section with respect to a controlled substance classified in Schedule III or marihuana shall be guilty of a class 1 misdemeanor.

Source: § 54-524.101:2.

§ 18.2-251. Persons charged with first offense may be placed on probation; discharge. — Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or is found guilty of possession of a controlled substance under § 18.2-250, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Source: § 54-524.101:3.

§ 18.2-252. Suspended sentence conditioned upon submission to periodic medical examinations and tests. — Notwithstanding any other provision of law to the contrary, the trial judge or court trying the case of any person found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, noxious chemical substances and like substances, may condition any suspended sentence by first requiring such person to agree to undergo periodic medical examinations and tests to ascertain any use or dependency on the substances listed above and like substances. The frequency and completeness of such examinations and tests shall be in the discretion of such judge or court, and the results of the examinations and tests given to the judge or court as ordered. The cost of such examinations and tests shall be paid by the State and taxed as a part of the costs of such criminal proceedings. The judge or court, in his or its discretion, may enter such additional orders as may be required to aid in the rehabilitation of such convicted person.

Source: § 54-524.101:4.

§ 18.2-253. Destruction of controlled substances seized in connection with violations of article. — (a) The circuit court of any county or city, upon proper motion made by the attorney for the Commonwealth or upon its own motion, may order the destruction of any controlled substance seized in connection with a violation under this article. The order shall state the existence and nature of the controlled drug, the quantity thereof, the location where seized, the person or persons from whom the substance was seized and the manner whereby such substance shall be destroyed. The order shall be directed to the officer having custody of the controlled substance. No such controlled substance used or to be used in a criminal prosecution under this article shall be destroyed until all rights of appeal have been exhausted.

(b) The officer to whom the order is directed shall return to the court an affidavit stating that such substance was completely destroyed. A copy of the said order and affidavit shall be made a part of the record of any criminal prosecution in which the controlled substance was used as evidence and shall, thereafter, be prima facie evidence of the existence and nature of the controlled substance, the quantity thereof, the location where seized and the person or persons from whom the substance was seized; provided, however, that the provisions of this section shall not be construed to interfere with the provisions of § 54-524.78 of this Code.

Source: § 54-524.101:5.

§ 18.2-254. Commitment of convicted person for treatment. — The trial judge or court trying the case of any person alleged to have committed any offense designated by this article or by The Drug Control Act and determined by such judge or court to be in need of treatment for the use of drugs may commit such person, upon his conviction and with his consent and the consent of the receiving institution, to any facility for the treatment of persons for the intemperate use of narcotic drugs or other stimulants, licensed or supervised by the State Mental Health and Mental Retardation Board, if space be available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction of such offense or, if sentence be determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The trial judge or court may revoke such commitment, at any time, and transfer the person to an appropriate penal institution. Upon presentation of a certified statement from the Commissioner of Health and Mental Retardation to the effect that the confined person is cured, the judge or court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

Source: § 54-254.102.

§ 18.2-255. Distribution of certain drugs to persons under eighteen; penalty. — It shall be unlawful for any person who is at least eighteen years of age to knowingly or intentionally distribute any drug classified in Schedule I, II or III to any person under eighteen years of age who is at least three years his junior. Any person violating this provision shall upon conviction be imprisoned in the penitentiary for a period not less than ten nor more than fifty years, and fined not more than fifty thousand dollars.

Source: § 54-524.103.

§ 18.2-256. Conspiracy. — Any person who conspires to commit any offense defined in this article or in The Drug Control Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

Source: § 54-524.104.

§ 18.2-257. Attempts.—(a) Any person who attempts to commit any offense defined in this article or in The Drug Control Act which is a felony shall be imprisoned for not less than one nor more than ten years; provided, however, that any person convicted of attempting to commit a felony for which a lesser punishment may be imposed may be punished according to such lesser penalty.

(b) Any person who attempts to commit any offense defined in this article or in The Drug Control Act which is a misdemeanor shall be guilty of a class 2 misdemeanor.

Source: § 54-524.104:1.

§ 18.2-258. Certain premises deemed common nuisance. — (a) Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer or operator thereof, is frequented by persons under the influence of illegally obtained controlled substances, as

defined in § 54-524.2 of this Code or for the purpose of illegally obtaining possession of, manufacturing or distributing controlled substances, or which is used for the illegal possession, manufacture or distribution of controlled substances, shall be deemed a common nuisance. It shall be unlawful for such owner, lessor, agent of any such lessor, manager, chief executive officer or operator to knowingly permit, establish, keep or maintain such a common nuisance.

(b) The penalties provided in this section shall be in addition to any other penalty provided by law.

Source: § 54-524.104:2.

§ 18.2-259. Penalties to be in addition to civil or administrative sanctions. — Any penalty imposed for violation of this article or of The Drug Control Act shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

Source: § 54-524.105.

§ 18.2-260. Prescribing, dispensing, etc., drug except as authorized in article and Drug Control Act; violations for which no penalty provided. — It shall be unlawful for any person to prescribe, administer or dispense any drug except as authorized in The Drug Control Act or in this article. Any person who violates any provision of The Drug Control Act or of this article, for which no penalty is elsewhere specified in this article or in Article 9 of The Drug Control Act, shall be guilty of a class 1 misdemeanor.

Source: § 54-524.106.

§ 18.2-261. Monetary penalty. — Any person licensed by the State Board of Pharmacy who violates any of the provisions of The Drug Control Act or of this article, and who is not criminally prosecuted, shall be subject to the monetary penalty provided in this section. If, by a majority vote, the Board shall determine that the respondent is guilty of the violation complained of, the board shall proceed to determine the amount of the monetary penalty for such violation, which shall not exceed the sum of five hundred dollars for each violation. Such penalty may be sued for and recovered in the name of the Commonwealth.

Source: § 54-524.107.

§ 18.2-262. Witnesses not excused from testifying or producing evidence because of self-incrimination. — No person shall be excused from testifying or from producing books, papers, correspondence, memoranda or other records for the Commonwealth as to any offense alleged to have been committed by another under this article or under The Drug Control Act by reason of his testimony or other evidence sought tending to incriminate himself, but the testimony given and evidence so produced by such person on behalf of the Commonwealth when called for by the trial judge or court trying the case, or by the attorney for the Commonwealth, or when summoned by the Commonwealth and sworn as a witness by the court or the clerk and sent before the grand jury, shall be in no case used against him nor shall he be prosecuted as to the offense as to which he testifies. Any person who refuses to testify or produce books, papers, correspondence, memoranda or other records, shall be guilty of a class 2 misdemeanor.

Source: § 54-524.107:1.

§ 18.2-263. Unnecessary to negative exception, etc.; burden of proof of exception, etc. — In any complaint, informations, or indictment, and in any action or proceeding brought for the enforcement of any provision of this

article or of The Drug Control Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this article or in The Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

Source: § 54-524.108.

§ 18.2-264. Inhaling drugs or other noxious chemical substances or causing, etc., others to do so. — (a) It shall be unlawful for any person deliberately to smell or inhale any drugs or any other noxious chemical substances including but not limited to fingernail polish or model airplane glue, containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, with the intent to become intoxicated, inebriated, excited, stupefied or to dull the brain or nervous system.

Any person violating the provisions of this subsection shall be guilty of a class 1 misdemeanor.

(b) It shall be unlawful for any person, other than one duly licensed, deliberately to cause, invite or induce any person to smell or inhale any drugs or any other noxious substances or chemicals containing any ketone, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors with the intent to intoxicate, inebriate, excite, stupify or to dull the brain or nervous system of such person.

Any person violating the provisions of this subsection shall be guilty of a class 2 misdemeanor.

Source: § 18.1-70.1.

§ 18.2-265. Use of opium, marihuana, etc., in the manufacture of cigarettes, etc. — Any manufacturer of cigarettes who shall employ opium, marihuana, loco weed or any other sedative, narcotic or hypnotic drug, or like chemical or controlled substance, either in the tobacco used or paper wrappers of cigarettes, cigars, tobacco or any otherwise undiluted foodstuff or beverage, other than that advertised, sold and used as a drug or medicine, shall be guilty of a class 1 misdemeanor.

Source: § 18.1-345.

Article 2.

Driving Motor Vehicle, etc., While Intoxicated.

§ 18.2-266. Driving motor vehicle, engines, etc., while intoxicated. — It shall be unlawful for any person to drive or operate any motor vehicle, engine or train while under the influence of alcohol, or while under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature.

Source: § 18.1-54.

§ 18.2-267. Analysis of breath to determine alcoholic content of blood. — (a) Any person who is suspected of a violation of § 18.2-266 shall be entitled, if such equipment be available, to have his breath analyzed to determine the probable alcoholic content of his blood. Such breath may be analyzed by any police officer of the State, or of any county, city or town, or by any member of the sheriff's department of any county, in the normal discharge of his duties.

(b) The State Board of Health shall determine the proper method and equipment to be used in analyzing breath samples taken pursuant to this section and shall advise the respective police and sheriff's departments of the same.

(c) Any person who has been stopped by a police officer of the State, or of any county, city or town, or by any member of the sheriff's department of any county and is suspected by such officer to be guilty of a violation of § 18.2-266, shall have the right to refuse to permit his breath to be so analyzed, and his failure to permit such analysis shall not be evidence in any prosecution under § 18.2-266, provided, however, that nothing in this section shall be construed as limiting in any manner the provisions of § 18.2-268.

(d) Whenever the breath sample so taken and analyzed indicates that there is alcohol present in the blood of the person from whom the breath was taken, the officer may charge such person for the violation of § 18.2-266, or a similar ordinance of a county, city or town wherein the arrest is made. Any person so charged shall then be subject to the provisions of § 18.2-268, or of a similar ordinance of a county, city or town.

(e) The results of such breath analysis shall not be admitted into evidence in any prosecution under § 18.2-266, the purpose of this section being to permit a preliminary analysis of the alcoholic content of the blood of a person suspected of having violated the provisions of § 18.2-266.

(f) Police officers or members of any sheriff's department shall, upon stopping any person suspected of having violated the provisions of § 18.2-266, advise such person of his rights under the provisions of this section.

Source: § 18.1-54.1.

§ 18.2-268. Use of chemical test to determine alcohol in blood; procedure; qualifications and liability of person withdrawing blood; costs; evidence; suspension of license for refusal to submit to test; localities authorized to adopt parallel provisions. — (a) As used in this section "license" means any operator's, chauffeur's or learner's permit or license authorizing the operation of a motor vehicle upon the highways.

(b) Any person whether licensed by Virginia or not, who operates a motor vehicle upon a public highway in this State on and after January one, nineteen hundred seventy-three, shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of his blood, if such person is arrested for a violation of § 18.2-266 or of a similar ordinance of any county, city or town within two hours of the alleged offense. Any person so arrested shall elect to have either the breath or blood sample taken, but not both. It shall not be a matter of defense that either test is not available.

(c) If a person after being arrested for a violation of § 18.2-266 or of a similar ordinance of any county, city or town and after having been advised by the arresting officer that a person who operates a motor vehicle upon a public highway in this State shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood or breath taken for a chemical test to determine the alcoholic content of his blood, and that the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of this State, then refuses to permit the taking of a sample of his blood or breath for such tests, the arresting officer shall take the person arrested before a committing magistrate and if he does again so refuse after having been further advised by such magistrate of the law requiring a blood or breath test to be taken and the penalty for refusal, and so declares again his refusal in writing upon a form provided by the Division of Consolidated Laboratory Services (hereinafter referred to as Division), or refuses or fails to so declare in writing and such fact is certified as prescribed in paragraph (j), then no blood or breath sample shall be taken even though he may thereafter request same.

(d) Only a physician, registered professional nurse, graduate laboratory technician or a technician or nurse designated by order of a court of record acting upon the recommendation of a licensed physician, using soap and water to cleanse the part of the body from which the blood is taken and using instruments sterilized by the accepted steam sterilizer or some other sterilizer which will not affect the accuracy of the test, or using chemically clean sterile disposable syringes, shall withdraw blood for the purpose of determining the alcoholic content thereof. No civil liability shall attach to any person authorized to withdraw blood as provided herein as a result of the act of withdrawing blood from any person submitting thereto, provided the blood was withdrawn according to recognized medical procedures; and provided further that the foregoing shall not relieve any such person from liability for negligence in the withdrawing of any blood sample.

(d1) Portions of the blood sample so withdrawn shall be placed in each of two vials provided by the Division which vials shall be sealed and labeled by the person taking the sample or at his direction, showing on each the name of the accused, the name of the person taking the blood sample, and the date and time the blood sample was taken. The vials shall be placed in two containers provided by the Division, which containers shall be sealed so as not to allow tampering with the contents. The arresting or accompanying officer shall take possession of the two containers holding the vials as soon as the vials are placed in such containers and sealed, and shall transport or mail one of the vials forthwith to the Division. The officer taking possession of the other container (hereinafter referred to as second container) shall, immediately after taking possession of said second container give to the accused a form provided by the Division which shall set forth the procedure to obtain an independent analysis of the blood in the second container, and a list of those laboratories and their addresses, approved by the Division; such form shall contain a space for the accused or his counsel to direct the officer possessing such second container to forward that container to such approved laboratory for analysis, if desired. The officer having the second container, after delivery of the form referred to in the preceding sentence (unless at that time directed by the accused in writing on such form to forward the second container to an approved laboratory of the accused's choice, in which event the officer shall do so) shall deliver said second container to the chief police officer of the county, city or town in which the case will be heard, and the chief police officer who receives the same shall keep it in his possession for a period of seventy-two (72) hours, during which time the accused or his counsel may, in writing, on the form provided hereinabove, direct the chief police officer having possession of the second container to mail it to the laboratory of the accused's choice chosen from the approved list. As used in this section, the term "chief police officer" shall mean the sheriff in any county not having a chief of police, the chief of police of any county having a chief of police, the chief of police of the city or the sergeant or chief of police of the town in which the charge will be heard.

(d2) The testing of the contents of the second container shall be made in the same manner as hereafter set forth concerning the procedure to be followed by the Division, and all procedures established herein for transmittal, testing and admission of the result in the trial of the case shall be the same as for the sample sent to the Division.

(d3) A fee not to exceed $15.00 shall be allowed the approved laboratory for making the analysis of the second blood sample which fee shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for violation of § 18.2-266, or of a similar ordinance of any county, city or town, the fee charged by the laboratory for testing the blood sample shall be taxed as part of the costs of the criminal case and shall be paid into the general fund of the State treasury.

(d4) If the chief police officer having possession of the second container is not directed as herein provided to mail it within seventy-two (72) hours after receiving said container then said officer shall destroy same.

(e) Upon receipt of the blood sample forwarded to the Division for analysis, the Division shall cause it to be examined for alcoholic content and the Director of the Division or his designated representative shall execute a certificate which shall indicate the name of the accused, the date, time and by whom the blood sample was received and examined, a statement that the container seal had not been broken or otherwise tampered with, a statement that the container was one provided by the Division and a statement of the alcoholic content of the sample. The certificate attached to the vial from which the blood sample examined was taken shall be returned to the clerk of the court in which the charge will be heard. The certificate attached to the container forwarded on behalf of the accused shall also be returned to the clerk of the court in which the charge will be heard, and such certificate shall be admissible in evidence when attested by the pathologist or by the supervisor of the laboratory approved by the Division.

(f) When any blood sample taken in accordance with the provisions of this section is forwarded for analysis to the Division, a report of the results of such analysis shall be made and filed in that office. Upon proper identification of the vial into which the blood sample was placed, the certificate as provided for in this section shall, when duly attested by the Director of the Division or his designated representative, be admissible in any court, in any criminal proceeding, as evidence of the facts therein stated and of the results of such analysis.

(g) Upon the request of the person whose blood or breath sample was taken for a chemical test to determine the alcoholic content of his blood, the results of such test or tests shall be made available to him.

(h) A fee not exceeding ten dollars shall be allowed the person withdrawing a blood sample in accordance with this section, which fee shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for violation of § 18.2-266 or of a similar ordinance of any county, city or town, the amount charged by the person withdrawing the sample shall be taxed as part of the costs of the criminal case and shall be paid into the general fund of the State treasury.

(i) In any trial for a violation of § 18.2-266 of the Code or of a similar ordinance of any county, city or town, this section shall not otherwise limit the introduction of any relevant evidence bearing upon any question at issue before the court, and the court shall, regardless of the result of the blood or breath test or tests, if any, consider such other relevant evidence of the condition of the accused as shall be admissible in evidence. The failure of an accused to permit a sample of his blood or breath to be taken for a chemical test to determine the alcoholic content of his blood is not evidence and shall not be subject to comment by the Commonwealth at the trial of the case, except in rebuttal; nor shall the fact that a blood or breath test had been offered the accused be evidence or the subject of comment by the Commonwealth, except in rebuttal.

(j) The form referred to in paragraph (c) shall contain a brief statement of the law requiring the taking of a blood or breath sample and the penalty for refusal, a declaration of refusal and lines for the signature of the person from whom the blood or breath sample is sought, the date and the signature of a witness to the signing. If such person refuses or fails to execute such declaration, the committing justice, clerk or assistant clerk shall certify such fact, and that the committing justice, clerk or assistant clerk advised the person arrested that such refusal or failure, if found to be unreasonable,

constitutes grounds for the revocation of such person's license to drive. The committing or issuing justice, clerk or assistant clerk shall forthwith issue a warrant charging the person refusing to take the test to determine the alcoholic content of his blood, with violation of this section. The warrant shall be executed in the same manner as criminal warrants.

(k) The executed declaration of refusal or the certificate of the committing justice, as the case may be, shall be attached to the warrant and shall be forwarded by the committing justice, clerk or assistant clerk to the court in which the offense of driving under the influence of intoxicants shall be tried.

(l) When the court receives the declaration of refusal or certificate referred to in paragraph (k) together with the warrant charging the defendant with refusing to submit to having a sample of his blood or breath taken for the determination of the alcoholic content of his blood, the court shall fix a date for the trial of said warrant, at such time as the court shall designate, but subsequent to the defendant's criminal trial for driving under the influence of intoxicants.

(m) The declaration of refusal or certificate under paragraph (k), as the case may be, shall be prima facie evidence that the defendant refused to submit to the taking of a sample of his blood or breath to determine the alcoholic content of his blood as provided hereinabove. However, this shall not be deemed to prohibit the defendant from introducing on his behalf evidence of the basis for his refusal to submit to the taking of a sample of his blood or breath to determine the alcoholic content of his blood. The court shall determine the reasonableness of such refusal.

(n) If the court shall find the defendant guilty as charged in the warrant, the court shall suspend the defendant's license for a period of 90 days for a first offense and for six months for a second or subsequent offense or refusal within one year of the first or other such refusals; the time shall be computed as follows: the date of the first offense and the date of the second or subsequent offense.

(o) The court shall forward the defendant's license to the Commissioner of the Division of Motor Vehicles of Virginia as in other cases of similar nature for suspension of license unless, however, the defendant shall appeal his conviction in which case the court shall return the license to the defendant upon his appeal being perfected.

(p) The procedure for appeal and trial shall be the same as provided by law for misdemeanors.

(q) No person arrested for a violation of § 18.2-266 or a similar ordinance of any county, city or town shall be required to execute in favor of any person or corporation a waiver or release of liability in connection with the withdrawal of blood and as a condition precedent to the withdrawal of blood as provided for herein.

(r) The court or the jury trying the case shall determine the innocence or the guilt of the defendant from all the evidence concerning his condition at the time of the alleged offense.

(r1) Chemical analysis of a person's breath, to be considered valid under the provisions of this section, shall be performed by an individual possessing a valid license to conduct such tests, with a type of equipment and in accordance with the methods approved by the State Health Commissioner. Such breath-testing equipment shall be tested for its accuracy by the State Health Commissioner's office at least once every six months.

The State Health Commissioner is directed to establish a training program

for all individuals who are to administer the breath tests, of at least forty hours of instruction in the operation of the breath test equipment and the administration of such tests. Upon the successful completion of the training program the Commissioner may issue a license to the individual operator indicating that he has completed the course and is authorized to conduct a breath test analysis.

Any individual conducting a breath test under the provisions of this section and as authorized by the State Health Commissioner shall issue a certificate which will indicate that the test was conducted in accordance with the manufacturer's specifications, the equipment on which the breath test was conducted has been tested within the past six months, the name of the accused, the date, the time the sample was taken from the accused, the alcoholic content of the sample, and by whom the sample was examined. The certificate, as provided for in this section, when duly attested by the authorized individual conducting the breath test, shall be admissible in any court in any criminal proceeding as evidence of the alcoholic content of the blood of the accused. In no case may the officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in the arrest of the accused, make the breath test or analyze the results thereof.

(s) The steps herein set forth relating to the taking, handling, identification, and disposition of blood or breath samples are procedural in nature and not substantive. Substantial compliance therewith shall be deemed to be sufficient. Failure to comply with any one or more of such steps or portions thereof, or a variance in the results of the two blood tests shall not of itself be grounds for finding the defendant not guilty, but shall go to the weight of the evidence and shall be considered as set forth above with all the evidence in the case, provided that the defendant shall have the right to introduce evidence on his own behalf to show noncompliance with the aforesaid procedure or any part thereof, and that as a result his rights were prejudiced.

(t) The governing bodies of the several counties, cities and towns are authorized to adopt ordinances paralleling the provisions of (a) through (s) of this section.

Source: § 18.1-55.1.

§ 18.2-269. Presumptions from alcoholic content of blood. — In any prosecution for a violation of § 18.2-266, or any similar ordinance of any county, city or town, the amount of alcohol in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcoholic content of his blood in accordance with the provisions of § 18.2-266 shall give rise to the following presumptions:

(1) If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood, it shall be presumed that the accused was not under the influence of alcoholic intoxicants;

(2) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight by volume of alcohol in the accused's blood, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

(3) If there was at that time 0.10 percent or more by weight by volume of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

Source: § 18.1-57.

§ 18.2-270. Penalty for driving while intoxicated; subsequent offense; prior conviction. — Any person violating any provision of § 18.2-266 shall be guilty of a class 2 misdemeanor.

Any person convicted within any period of ten years of a second or other subsequent offense under § 18.2-266, or convicted of a first offense under § 18.2-266 after having been convicted within a period of ten years prior thereto of an offense under former § 18.1-54 (formerly § 18-75), shall be punishable by a fine of not less than two hundred dollars nor more than one thousand dollars and by confinement in jail for not less than one month nor more than one year.

For the purpose of this section a conviction or finding of not innocent in the case of a juvenile under the provisions of § 18.2-266, former § 18.1-54 (formerly § 18-75), the ordinance of any county, city or town in this State or the laws of any other state substantially similar to the provisions of §§ 18.2-266 through 18.2-269 of this Code, shall be considered a prior conviction.

Source: § 18.1-58.

§ 18.2-271. Same; forfeiture of driver's license; suspension of sentence. — The judgment of conviction, or finding of not innocent in the case of a juvenile, if for a first offense under § 18.2-266, or for a similar offense under any county, city or town ordinance, shall of itself operate to deprive the person so convicted or found not innocent of the right to drive or operate any motor vehicle, engine or train in this State for a period of not less than six months nor more than one year in the discretion of the court from the date of such judgment, and if for a second or other subsequent offense within ten years thereof for a period of three years from the date of the judgment of conviction or finding of not innocent thereof, any such period in either case to run consecutively with any period of suspension for failure to permit a blood sample to be taken as required by § 18.2-268. If any person has heretofore been convicted or found not innocent of violating any similar act of this State and thereafter is convicted or found not innocent of violating the provisions of § 18.2-266, such conviction or finding shall for the purpose of this section and § 18.2-270 be a subsequent offense and shall be punished accordingly; and the court may, in its discretion, suspend the sentence during the good behavior of the person convicted or found not innocent.

Source: § 18.1-59.

§ 18.2-272. Driving after forfeiture of license. — If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this State, he shall be guilty of a misdemeanor and shall be confined in jail not less than ten days nor more than six months and may in addition be fined not exceeding five hundred dollars; but nothing in this section or §§ 18.2-266, 18.2-270 or 18.2-271, shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

Source: § 18.1-60.

§ 18.2-273. Report of conviction to Division of Motor Vehicles. -- The clerk of every court of record and the judge of every court not of record shall, within thirty days after final conviction of any person in his court under the provisions of this article, report the fact thereof and the name, post-office address and street address of such person, together with the license plate number on the vehicle operated by such person to the Commissioner of the Division of Motor Vehicles who shall preserve a record thereof in his office.

Source: § 18.1-61.

Article 3.

Transporting Dangerous Articles.

§ 18.2-274. Definitions.—Unless a different meaning is clearly required by the context:

(1) The term "highway" as used herein shall mean and include any public street, alley, road, tunnel, bridge, viaduct, turnpike or parkway.

(2) The term "dangerous articles" as used herein shall mean explosives, flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous substances and radioactive materials as hereinafter defined when transported as cargo.

(3) The word "person" as used herein shall mean and include any individual, partnership, association or corporation.

(4) The term "flammable liquids" as used herein shall mean any liquid which gives off flammable vapors (as determined by flash point from Tagliabue's open cup tester, as used for test of burning oils) at or below a temperature of 80 degrees F.

(5) The term "flammable solid" as used herein shall mean any solid substance other than an explosive, as hereinafter defined, which is liable, under conditions incident to transportation, to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing.

(6) The term "oxidizing material" as used herein shall mean any substance such as chlorate, permanganate, peroxide, or a nitrate that yields oxygen readily to stimulate the combustion of organic matter.

(7) The term "corrosive liquids" as used herein shall mean those acids, alkaline caustic liquids and other corrosive liquids which, when in contact with living tissue will cause severe damage of such tissue by chemical action; or in case of leakage, will materially damage or destroy other freight by chemical action; or are liable to cause fire when in contact with organic matter or with certain chemicals.

(8) The term "compressed gas" as used herein shall mean any material or mixture having in the container either an absolute pressure exceeding 40 pounds per square inch at 70 degrees F., or an absolute pressure exceeding 104 pounds per square inch at 130 degrees F., or both, or any liquid flammable material having a Reid vapor pressure exceeding 40 pounds per square inch absolute at 100 degrees F.

(9) The term "poisonous substances" shall mean liquids and gases of such nature that a very small amount of the gas, or vapor of the liquid, mixed with air is dangerous to life; or such liquid or solid substances as upon contact with fire or when exposed to air give off dangerous or intensely irritating fumes; or substances which are chiefly dangerous by external contact with the body or by being taken internally.

(10) The term "radioactive materials" as used herein shall mean any material or combination of materials that spontaneously emits ionizing radiation.

(11) The term "explosive" shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible

units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator, or any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Source: § 18.1-48.

§ 18.2-275. Unlawful to transport dangerous articles except as prescribed; penalty for violation. — It shall be unlawful to ship or transport within the territorial limits of this Commonwealth, whether by motor vehicle, boat, aircraft, or any other means of conveyance, any dangerous article except in the manner prescribed by the State Corporation Commission. It shall be the duty of the Commission, from time to time, within its discretion, to promulgate rules and regulations fixing maximum amounts of various dangerous articles, except as to flammable liquids, which may be transported in any manner and the methods of packing and marking the same. In all instances in which such dangerous articles are transported by motor vehicle over the highways of this Commonwealth such motor vehicle must be conspicuously marked or placarded on each side and rear thereof with the word "DANGEROUS" or the common or generic name of the substance transported or its principal hazard; provided, however, that the Commission may, by regulation, prescribe with respect to specifically dangerous articles the minimum quantities below which no placard shall be required. Any violation of any provision of this section, or the rules and regulations of the Commission promulgated pursuant thereto, shall constitute a class 4 misdemeanor; and every subsequent offense shall constitute a class 2 misdemeanor.

Source: §§ 18.1-49 and 18.1-50.

§ 18.2-276. Enforcement. — The enforcement of the provisions of the foregoing sections shall be the duty of the State Corporation Commission and the Department of State Police, together with all law enforcement and peace officers of this Commonwealth.

Source: § 18.1-51.

§ 18.2-277. Article not to preclude exercise of other regulatory powers. — The provisions in this article shall not be construed so as to preclude the exercise of the regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to exclude dangerous articles or cargoes from specified highways or portions thereof.

Source: § 18.1-52.

§ 18.2-278. Exceptions. — Nothing contained in this article shall apply to shipment or transportation of dangerous articles in interstate commerce when packed, marked, labeled, or accompanied by shipping papers in conformity with the applicable regulations of the Interstate Commerce Commission and placarded in conformity therewith; nor to the regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to motor vehicles when transporting bulk flammable liquids by tank truck.

Source: § 18.1-53.

Article 4.

Dangerous Use of Firearms or Other Weapons.

§ 18.2-279. Discharging firearms or missiles within or at occupied buildings. — If any person maliciously discharges a firearm within any building when occupied by one or more persons in such a manner as to endanger the life or lives of such person or persons, or maliciously shoot at, or maliciously throw any missile at or against any dwelling house or other building when occupied by one or more persons, whereby the life or lives of any such person or persons may be put in peril, the person so offending shall be guilty of a class 4 felony; and, in the event of the death of any person, resulting from such malicious shooting or throwing, the person so offending shall be guilty of murder, the degree to be determined by the jury or the court trying the case without a jury.

If any such act be done unlawfully, but not maliciously, the person so offending shall be guilty of a class 6 felony; and, in the event of the death of any person resulting from such unlawful shooting or throwing, the person so offending shall be guilty of involuntary manslaughter.

Source: § 18.1-66 and 18.1-152.

§ 18.2-280. Wilfully discharging firearms in public places. — If any person wilfully discharge or cause to be discharged any firearm in any street in a city or town, or in any place of public business or place of public gathering, he shall be guilty of a class 1 misdemeanor; provided, that this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said wilful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.

Source: § 18.1-69.

§ 18.2-281. Setting spring gun or other deadly weapon. — It shall be unlawful for any person to set or fix in any manner any firearm or other deadly weapon so that it may be discharged or activated by a person coming in contact therewith or with any string, wire, spring, or any other contrivance attached thereto or designed to activate such weapon remotely. Any person violating this section shall be guilty of a class 6 felony.

Source: § 18.1-69.1.

§ 18.2-282. Pointing or brandishing firearm or object similar in appearance. — (a) It shall be unlawful for any person to point, or brandish any firearm, as hereinafter described, or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another. Persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.

(b) Any police officer, in the performance of his duty in making an arrest under the provisions of this section shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, or brandishing such firearm, or object which was similar in appearance to a firearm, with intent to induce fear in the mind of another.

(c) For purposes of this section the word "firearm" shall mean any weapon in which ammunition may be used or discharged, by explosion, or pneumatic pressure. The word "ammunition," as used herein, shall mean cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

Source: § 18.1-69.2.

§ 18.2-283. Carrying dangerous weapon to place of religious worship. — If any person carry any gun, pistol, bowie knife, dagger or other dangerous weapon, without good and sufficient reason, to a place of worship while a meeting for religious purposes is being held at such place he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-241.

§ 18.2-284. Selling or giving toy firearms. — No person shall sell, barter, exchange, furnish, or dispose of by purchase, gift or in any other manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by means of powder or other explosive, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense.

Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

Source: § 18.1-347.

§ 18.2-285. Hunting with firearms while under influence of intoxicant or narcotic drug. — It shall be unlawful for any person to hunt with firearms in the State of Virginia while under the influence of alcohol, or while under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor. Game wardens, sheriffs and all other law enforcement officers shall enforce the provisions of this section.

Source: § 29-140.1.

§ 18.2-286. Shooting in or along road or in a street. — If any person discharge a firearm in or along any road, or within one hundred yards thereof, or in a street of any city or town, he shall, for each offense, be guilty of a class 4 misdemeanor.

The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law enforcement officers and military personnel in performance of their lawful duties.

Source: § 33.1-349.

§ 18.2-287. Counties may regulate carrying of loaded firearms on public highways. — The governing body of any county is hereby empowered to adopt ordinances making it unlawful for any person to carry or have in his possession while on any part of a public highway within such county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking; and to provide a penalty for violation of such ordinance not to exceed a fine of one hundred dollars.

Source: § 18.1-272.

Note: § 18.1-272 incorporates by reference various acts of the General Assembly which, on the respective dates of their passage, prohibited the carrying of loaded firearms under certain conditions on public highways in the counties of Charles City, New Kent, Caroline, Fauquier and Culpeper, designated by population brackets. Due to changes in population, these various acts no longer are applicable to several of the foregoing five counties but are applicable to other counties not originally intended. § 18.2-287 is a local option statute permitting any county to adopt an ordinance to such effect.

Article 5.

Uniform Machine Gun Act.

§ 18.2-288. Definitions. — When used in this article:

(1) "Machine gun" applies to any weapon which shoots or is designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

Source: § 18.1-258.

§ 18.2-289. Use of machine gun for crime of violence. — Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a class 2 felony.

Source: § 18.1-259.

§ 18.2-290. Use of machine gun for aggressive purpose. — Unlawful possession or use of a machine gun for an offensive or aggressive purpose is hereby declared to be a class 4 felony.

Source: § 18.1-260.

§ 18.2-291. What constitutes aggressive purpose. — Possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found;

(2) When the machine gun is in the possession of, or used by, a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the machine gun has not been registered as required in § 18.2-295; or

(4) When empty or loaded shells which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

Source: § 18.1-261.

§ 18.2-292. Presence prima facie evidence of use. — The presence of a machine gun in any room, boat or vehicle shall be prima facie evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

Source: § 18.1-262.

§ 18.2-293. What article does not apply to.—The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, machine guns to the armed forces or law-enforcement officers of the United States or of any state or of any political subdivision thereof, or the transportation required for that purpose; and

(2) Machine guns and automatic arms issued to the National Guard of Virginia by the United States or such arms used by the United States Army or

Navy or in the hands of troops of the National Guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions.

Source: § 18.1-263, first part.

§ 18.2-293.1. What article does not prohibit. — Nothing contained in this article shall prohibit or interfere with:

(1) The possession of a machine gun for scientific purposes, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; and

(2) The possession of a machine gun for a purpose manifestly not aggressive or offensive.

Provided, however, that possession of such machine guns shall be subject to the provisions of § 18.2-295.

Source: § 18.1-263, second part.

§ 18.2-294. Manufacturer's and dealer's register; inspection of stock. — Every manufacturer or dealer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provisions of this section shall be punishable as a class 3 misdemeanor.

Source: § 18.1-264.

§ 18.2-295. Registration of machine guns. — Every machine gun in this State shall be registered with the Department of State Police within twenty-four hours after its acquisition. Thereafter it shall be registered annually. Blanks for registration shall be prepared by the Superintendent of State Police, and furnished upon application. To comply with this section the application as filed shall be notarized and shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which, the gun was acquired. The Superintendent of State Police shall immediately upon registration required in this section furnish the registrant with a certificate of registration, which shall be kept by the registrant and produced by him upon demand by any peace officer. Failure to keep or produce such certificate for inspection shall be a class 3 misdemeanor, and any peace officer, may without warrant, seize the machine gun and apply for its confiscation as provided in § 18.2-296. No registered machine gun shall be transferred without the registrant notifying in writing the Superintendent of State Police the name and address of the transferee. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section, shall be presumed to possess the same for offensive or aggressive purpose.

Source: § 18.1-265.

§ 18.2-296. Search warrants for machine guns. — Warrant to search any house or place and seize any machine gun possessed in violation of this article may issue in the same manner and under the same restrictions as provided by law for stolen property, and any court of record, upon application of the attorney for the Commonwealth, a police officer or conservator of the peace, may order any machine gun, thus or otherwise legally seized, to be confiscated

and either destroyed or delivered to a peace officer of the State or a political subdivision thereof.

Source: § 18.1-266.

§ 18.2-297. How article construed.—This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Source: § 18.1-267.

§ 18.2-298. Short title of article. — This article may be cited as the Uniform Machine Gun Act.

Source: § 18.1-268.

Article 6.

"Sawed-Off" Shotgun Act.

§ 18.2-299. Definitions. — When used in this article:

(1) "Sawed-off" shotgun applies to any weapon, loaded or unloaded, originally designed as a shoulder weapon, utilizing a self-contained cartridge from which a number of ball shot pellets or projectiles may be fired simultaneously from a smooth or rifled bore by a single function of the firing device and which has a barrel length of less than eighteen inches for smooth bore weapons and sixteen inches for rifled weapons. Weapons of less than .225 caliber shall not be included.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

Source: § 18.1-268.1.

§ 18.2-300. Possession or use of "sawed-off" shotgun for crime of violence. — Possession or use of a "sawed-off" shotgun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a class 2 felony.

Source: § 18.1-268.2.

§ 18.2-301. Possession or use of "sawed-off" shotgun for offensive or aggressive purpose.—Unlawful possession or use of a "sawed-off" shotgun for an offensive or aggressive purpose is hereby declared to be a class 4 felony.

Source: § 18.1-268.3.

§ 18.2-302. What constitutes offensive or aggressive purpose. — Possession or use of a "sawed-off" shotgun shall be presumed to be for an offensive or aggressive purpose:

(1) When the "sawed-off" shotgun is found in the possession of an individual at the scene of a riot or civil disturbance, unless such possession is on premises owned or rented by the individual for residential, recreational or business purposes and obviously for defense of his person, family or property during such riot or civil disturbance;

(2) When the "sawed-off" shotgun is in the possession of, or used by, a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the "sawed-off" shotgun is of the kind described in § 18.2-299 and has not been registered as required in § 18.2-305; or

(4) When the "sawed-off" shotgun is found in the possession of an individual under circumstances indicating his preparation to participate in a riot or civil disturbance or his preparation for the commission of a crime of violence.

Source: § 18.1-268.4.

§ 18.2-303. What article does not apply to. — The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, "sawed-off" shotguns to the armed forces or law-enforcement officers of the United States or of any state or of any political subdivision thereof, or the transportation required for that purpose; and

(2) "Sawed-off" shotguns and automatic arms issued to the national guard of Virginia by the United States or such arms used by the United States army or navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions.

Source: § 18.1-268.5, first part.

§ 18.2-303.1. What article does not prohibit. — Nothing contained in this article shall prohibit or interfere with the possession of a "sawed-off" shotgun for scientific purposes, or the possession of a "sawed-off" shotgun not usable as a firing weapon and possessed as a curiosity, ornament, or keepsake. Provided, however, that possession of such "sawed-off" shotguns shall be subject to the provisions of § 18.2-305.

Source: § 18.1-268.5, second part.

§ 18.2-304. Manufacturer's and dealer's register; inspection of stock. — Every manufacturer or dealer shall keep a register of all "sawed-off" shotguns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every "sawed-off" shotgun, the name, address, and occupation of the person to whom the "sawed-off" shotgun was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal, sheriff or police officer to inspect his entire stock of "sawed-off" shotguns, and "sawed-off" shotgun barrels, and shall produce the register, herein required, for inspection. A violation of any provision of this section shall be punishable as a class 3 misdemeanor.

Source: § 18.1-268.6.

§ 18.2-305. Registration of "sawed-off" shotguns. — Every "sawed-off" shotgun in this State shall be registered with the Department of State Police within twenty-four hours after its acquisition. Thereafter it shall be registered annually. Blanks for registration shall be prepared by the Superintendent of State Police, and furnished upon application. To comply with this section the application as filed shall be notarized and shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The Superintendent of State Police shall immediately upon registration required in this section furnish the registrant with a certificate of registration, which shall be kept by the registrant and produced by him upon demand by any peace officer. Failure to keep or produce such certificate for inspection shall be a class 3 misdemeanor, and any peace officer may, without warrant, seize the "sawed-off" shotgun and apply for its confiscation as provided in §

18.2-306. No registered "sawed-off" shotgun shall be transferred without the registrant notifying in writing the Superintendent of State Police of the name and address of the transferee. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive or aggressive purpose.

Source: § 18.1-268.7.

§ 18.2-306. Search warrants for "sawed-off" shotguns; confiscation and destruction.—Warrant to search any house or place and seize any "sawed-off" shotgun possessed in violation of this article may issue in the same manner and under the same restrictions as provided by law for stolen property, and any court of record, upon application of the attorney for the Commonwealth, a police officer or conservator of the peace, may order any "sawed-off" shotgun thus or otherwise legally seized, to be confiscated and either destroyed or delivered to a peace officer of the State or a political subdivision thereof.

Source: § 18.1-268.8.

§ 18.2-307. Short title of article. — This article may be cited as the "Sawed-Off Shotgun Act."

Source: § 18.1-268.9.

Article 7.

Other Illegal Weapons.

§ 18.2-308. Carrying concealed weapons; when lawful to carry. — If any person carry about his person, hid from common observation, any pistol, dirk, bowie knife, switchblade knife, razor, slungshot, metal knucks, or any weapon of like kind, he shall be guilty of a class 1 misdemeanor, and such weapon shall, be forfeited to the Commonwealth by order of court and may be seized by an officer as forfeited, and such as may be needed for police officers and conservators of the peace shall be devoted to that purpose, and the remainder shall be destroyed by the officer having them in charge.

This section shall not apply to any police officers, sergeants, sheriffs, officers or guards of the penitentiary or other institutions or camps of the State corrections system, conservators of the peace other than notaries public, to carriers of United States mail in the rural districts, while in the discharge of their official duties, or to any person while in his own place of abode.

Any circuit court, upon a written application and satisfactory proof of the good character and necessity of the applicant to carry concealed weapons, may grant permission so to do for one year. The order granting such permission shall be entered in the law order book of such court.

Source: § 18.1-269.

§ 18.2-309. Furnishing certain weapons to minors. — If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor a pistol, dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor, such person shall be guilty of a class 4 misdemeanor.

Source: § 18.1-344.

§ 18.2-310. Forfeiture of certain weapons used in commission of criminal offense. — All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, razors, slungshots, brass or metal knucks, blackjacks and other weapons used by any person or persons in the commission of a criminal offense, may, upon conviction of such person or persons so using the same, be forfeited to the

Commonwealth by order of the court trying the case, which shall make such disposition of such weapons as it deems proper by entry of an order of record.

Source: § 18.1-270.

§ 18.2-311. Prohibiting the selling or having in possession blackjacks, etc. — If any person sell or barter, or exhibit for sale or for barter, or give or furnish, or cause to be sold, bartered, given or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, switch-blade knife or like weapons, such person shall be guilty of a class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give or furnish the same.

Source: § 18.1-271.

Article 8.

Miscellaneous Dangerous Conduct.

§ 18.2-312. Illegal use of tear gas, phosgene and other gases. — If any person maliciously release or cause or procure to be released in any private home, place of business or place of public gathering any tear gas, mustard gas, phosgene gas or other noxious or nauseating gases or mixtures of chemicals designed to, and capable of, producing vile or injurious or nauseating odors or gases, and bodily injury results to any person from such gas or odor, the offending person shall be guilty of a class 3 felony.

If such act be done unlawfully, but not maliciously, the offending person shall be guilty of a class 6 felony.

Nothing herein contained shall prevent the use of tear gas or other gases by police officers or other peace officers in the proper performance of their duties, or by any person or persons in the protection of person, life or property.

Source: § 18.1-70.

§ 18.2-313. Handling or using snakes so as to endanger human life or health. — It shall be unlawful for any person, or persons, to display, exhibit, handle or use any poisonous or dangerous snake or reptile in such a manner as to endanger the life or health of any person.

Any person violating the provisions of this section shall be guilty of a class 4 misdemeanor.

Source: § 18.1-72.

§ 18.2-314. Failing to secure medical attention for injured child. — Any parent or other person having custody of a minor child which child shows evidence of need for medical attention as the result of physical injury inflicted by an act of any member of the household, whether the injury was intentional or unintentional, who knowingly fails or refuses to secure prompt and adequate medical attention, or who conspires to prevent the securing of such attention, for such minor child, shall be guilty of a class 1 misdemeanor; provided, however; that any parent or other person having custody of a minor child that is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not, for that reason alone, be considered in violation of this section.

Source: § 18.1-74.2.

§ 18.2-315. Hypnotism and mesmerism. — If any person shall hypnotize

or mesmerize or attempt to hypnotize or mesmerize any person, he shall be guilty of a class 3 misdemeanor. But this section shall not apply to hypnotism or mesmerism performed by a licensed physician or dentist, or at his request, in the practice of his profession.

Source: § 18.1-414.

§ 18.2-316. Duty of persons causing well or pit to be dug to fill it before abandonment. — Any person who has caused to be dug on his own land or the land of another any well or pit, shall fill such well or pit with earth so that the same shall not be dangerous to human beings, animals or fowls before such well or such pit is abandoned; and any person owning land whereon any such well or pit is located shall in the same manner fill with earth any such well or pit which has been abandoned, provided such person has knowledge of the existence of such well or pit.

But in the case of mining operations in lieu of filling the shaft or pit the owner or operator thereof on ceasing operations in such shaft or pit shall securely fence the same and keep the same at all times thereafter securely fenced.

Any person violating any provision of this section shall be deemed guilty of a class 3 misdemeanor.

Source: § 18.1-73.

§ 18.2-317. Covers to be kept on certain wells. — Every person owning or occupying any land on which there is a well having a diameter greater than six inches and which is more than ten feet deep shall at all times keep the same covered in such a manner as not to be dangerous to human beings, animals or fowls.

Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor.

Source: § 18.1-74.

§ 18.2-318. Authority of counties, cities and towns to require and regulate well covers. — Notwithstanding the provisions of § 18.2-317, the governing body of any county, city or town may adopt ordinances requiring persons owning or occupying any land within such county, city or town on which there is a well having a diameter greater than six inches and which is more than ten feet deep to keep the same covered in such a manner as not to be dangerous to human beings, animals or fowls.

Any such ordinance may specify and require reasonable minimum standards for the construction, installation and maintenance of such covers, including the manner in which any concrete used in connection therewith shall be reinforced, and may prescribe punishment for violations not inconsistent with general law.

Source: § 18.1-74.1.

§ 18.2-319. Discarding or abandoning iceboxes, etc.; precautions required. — It shall be unlawful for any person, firm or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than 2 cu. ft. of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment.

This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally

designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

Any violation of the provisions of this section shall be punishable as a class 3 misdemeanor.

Source: § 18.1-415.

§ 18.2-320. Sale, etc., of plastic bags; warning required. — (a) No person shall sell, offer for sale, or deliver, or offer for delivery, or give away any plastic bag or partial plastic bag intended to enclose freshly cleaned clothing, the length of which totals twenty-five inches or more and the material of which is less than one mil (1/1000 inch) in thickness; unless such plastic bag bears the following warning statement, or a warning statement which the Commissioner of Health has approved as the equivalent thereof:

"WARNING: To avoid danger of suffocation, keep this plastic bag away from babies and children. Do not use this bag in cribs, beds, carriages or playpens."

(b) Such warning statement shall be imprinted in a prominent place on the plastic bag or shall appear on a label securely attached to the bag in a prominent place, and shall be printed in legible type of at least thirty-six point type.

(c) Violators of this section shall be guilty of a class 3 misdemeanor.

Source: § 18.1-415.1.

§ 18.2-321. Using X-ray, fluoroscope, etc., in the fitting of footwear. — It shall be unlawful for any person to use any X-ray, fluoroscope, or other equipment or apparatus employing Roentgen rays, in the fitting of shoes or other footwear. This section shall not apply to any licensed physician or surgeon in the practice of his profession. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor.

Source: § 18.1-416.

§ 18.2-322. Expectorating in public places. — No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assemble, or upon the floor of any part of any public conveyance, or upon any sidewalk abutting on any public street, alley or lane of any town or city.

Any person violating any provision of this section shall be guilty of a class 4 misdemeanor.

Source: § 32-69.

§ 18.2-323. Leaving disabled or dead animal in road, or allowing dead animal to remain unburied. — If any person cast any dead animal into a road or knowingly permit any dead animal to remain unburied upon his property when offensive to the public or, having in custody any maimed, diseased, disabled or infirm animal, leave it to lie or be in a street, road or public place, he shall be guilty of a class 3 misdemeanor.

Source: § 32-70.1.

§ 18.2-324. Throwing or depositing certain substances upon highway; removal of such substances. — No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle

upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.

Source: § 33.1-350.

Chapter 8.

Crimes Involving Morals and Decency.

Article 1.

Gambling.

§ 18.2-325. Definitions: illegal gambling, gambling devices, operator. — (1) "Illegal gambling" — The making, placing or receipt, of any bet or wager in this State of money or other 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 this State, shall constitute illegal gambling.

(2) "Gambling device" — A 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, and

(b) Any machine, apparatus, implement, instrument, contrivance, board or other thing, 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.

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.

(3) "Operator" — An 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.

Source: New, with portions drawn from §§ 18.1-318.1, 18.1-320, 18.1-329 and 18.1-331.

Note: §§ 18.2-325 through 18.2-340, comprising the article on gambling, is

a complete revision of existing statutes. See the General Note at the commencement of this Report.

§ 18.2-326. Penalty for illegal gambling. — Except as otherwise provided in this article, any person who illegally gambles shall be guilty of a class 3 misdemeanor. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.

Source: § 18.1-316.

§ 18.2-327. Winning by fraud; penalty. — If any person while gambling cheats or by fraudulent means wins or acquires for himself or another money or any other valuable thing, he shall be fined not less than five nor more than ten times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this article.

Source: § 18.1-318.

§ 18.2-328. Conducting illegal gambling operation; penalties. — The operator of an illegal gambling enterprise, activity or operation, shall be guilty of a class 6 felony; provided, however, that if any such operator shall engage in any illegal gambling operation which has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross income of two thousand dollars or more in any single day, he shall be fined not more than twenty thousand dollars and imprisoned not less than one nor more than ten years.

Source: § 18.1-318.1.

§ 18.2-329. Owners, etc., of gambling place permitting its continuance; penalty. — If the owner, lessee, tenant, occupant or other person in control of any place or conveyance, knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified a law-enforcement officer of the presence of such illegal gambling activity, he shall be guilty of a class 1 misdemeanor.

Source: §§ 18.1-319, 18.1-324, 18.1-337 and 18.1-339.

§ 18.2-330. Accessories to gambling activity; penalty. — Any person, firm or association of persons, other than those persons specified in other sections of this article, who knowingly aids, abets or assists in the operation of an illegal gambling activity, shall be guilty of a class 2 misdemeanor.

Source: §§ 18.1-319 and 18.1-325.

§ 18.2-331. Illegal possession, etc., of gambling device; penalty. — A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Violation of any provision of this section shall constitute a class 1 misdemeanor.

Source: § 18.1-330.

§ 18.2-332. Certain acts not deemed "consideration" in prosecution under this article. — In any prosecution under this article, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding; or any one or more thereof, where no charge is made to, paid by, or any purchase required of him in connection therewith.

Source: § 18.1-340.1.

§ 18.2-333. Exceptions; certain sporting events. — Nothing in this article shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose or dependent upon their position or score at the end of such contest.

Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant other than the contestant purported to be entered or knowingly and fraudulently enters a contestant in a class in which it does not belong, shall be guilty of a class 3 misdemeanor.

Source: §§ 18.1-319 and 18.1-322.

§ 18.2-334. Exception; private residences. — Nothing in this article shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and there is no operator as defined in subsection (3) of § 18.2-325.

Source: § 18.1-327.

Note: The portion relating to "a business office after business hours" has been deleted.

§ 18.2-335. Exception as to bingo games and raffles conducted by certain organizations; penalty for violation of exception. — Nothing in this article shall apply to any bingo game or raffle conducted solely by any of the following:

(1) A voluntary fire department or rescue squad which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision;

(2) An organization, which for purposes of this section, shall be defined as any of the following which operates without profit and which has been in existence continuously for a period of two years immediately prior to seeking a permit as hereinafter provided:

(i) A corporation, trust, church, association, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, community or educational purposes;

(ii) Posts or associations of war veterans or auxiliary units or societies of any such posts or associations, if such posts, associations, units or societies are organized in the United States or any of its possessions;

(iii) A fraternal society, order or association operating under the lodge system;

(iv) A corporation or association organized and operated exclusively for the restoration and maintenance of historic gardens and the general promotion of beautiful gardens.

Provided, however, that no part of the gross receipts derived from such activity inures directly or indirectly to the benefit of any private shareholder, member, agent or employee of any such volunteer fire department, rescue squad or organization; and provided further, that any such volunteer fire department, rescue squad or organization shall not enter into a contract with any person or firm, association, organization, partnership or corporation of any classification whatsoever, for the purpose of organizing, managing or conducting bingo games or raffles. Such volunteer fire department, rescue

squad or organization may delegate the authority or duty of organizing, managing or conducting bingo games or raffles only to a natural person or persons who are bona fide members of such volunteer fire department, rescue squad or organization. No such volunteer fire department, rescue squad or organization shall conduct any bingo game or raffle without first having obtained an annual permit from the governing body of the political subdivision where such volunteer fire department, rescue squad or business office of the organization is located. No such volunteer fire department, rescue squad or organization shall place or permit to be placed on the premises, or within one hundred yards of the premises, where such bingo game is to be conducted, any sign or signs advertising such bingo game. Records of all receipts and disbursements shall be kept and shall be filed annually with the commissioner of accounts of such political subdivision and such records shall be a matter of public record. The governing body of such political subdivision may revoke the permit of any volunteer fire department, rescue squad or organization found to be not in compliance with this section, and any person, shareholder, agent, member or employee of any such volunteer fire department, rescue squad or organization violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed one thousand dollars.

Should any volunteer fire department, rescue squad or organization be found in violation of this section, then the Commonwealth attorney of such political subdivision may, in addition to the foregoing criminal penalty, apply to any court of competent jurisdiction for an injunction against such volunteer fire department, rescue squad or organization from continuing to run bingo games or raffles for a period not to exceed three years from the date of such violation.

Source: § 18.1-340(b).

§ 18.2-336. Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise; innocent owners or lienors. — All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law-enforcement officer or which shall lawfully come into his custody, shall be forfeited to the Commonwealth by order of the court in which a conviction under this article is had. Such court shall order all money so forfeited paid over to the Commonwealth, and by order shall make such disposition of other property so forfeited as the court deems proper, including award of such property to any State agency or charitable organization for lawful purposes, or in case of the sale thereof the proceeds therefrom to be paid over to the Commonwealth. Provided, however, that such forfeiture shall not extinguish the rights of any person without knowledge of the illegal use of such property who is the lawful owner or who has a lien on the same which has been perfected in the manner provided by law.

Source: §§ 18.1-318.1, 18.1-321, 18.1-323, 18.1-333 and 18.1-341.

§ 18.2-337. Immunity of witnesses from prosecution. — No witness called by the Commonwealth or by the court, giving evidence either before the grand jury or in any prosecution under this article, shall ever be prosecuted for the offense being prosecuted concerning which he testifies. Such witness shall be compelled to testify and for refusing to do so may be punished for contempt.

Source: § 19.1-266.

§ 18.2-338. Enforcement of § 18.2-331 by Governor and Attorney General. — If it shall come to the knowledge of the Governor that § 18.2-331 is not being enforced in any county, city or town, the Governor may call upon the Attorney

General to direct its enforcement in such county, city or town, and thereupon the Attorney General may instruct the attorney for the Commonwealth, sheriff and chief of police, if any, of such county, or the attorney for the Commonwealth and chief of police of such city, or the attorney for the Commonwealth of the county in which such town is located and the chief of police or sergeant of such town, to take such steps as may be necessary to insure the enforcement of such section in such county, city or town, and if any such officers, after receiving such instructions, shall thereafter fail or refuse to exercise diligence in the enforcement of § 18.2-331, the Attorney General shall make report thereof in writing to the Governor and to the judge of the court of record having jurisdiction over the acts thereby prohibited, and thereupon the Attorney General upon being directed so to do by the Governor, shall take such steps as he may deem proper in directing the institution and prosecution of criminal proceedings, to secure the enforcement of § 18.2-331.

Source: § 18.1-334.

§ 18.2-339. Enjoining offenses relating to gaming. — Whenever any person shall be engaged in committing, or in permitting to be committed, or shall be about to commit, or permit, any act prohibited by any one or more of the sections in this article, the attorney for the Commonwealth of the county or city in which such act is being, or is about to be, committed or permitted, or the Attorney General of the State, may institute and maintain a suit in equity in the appropriate court, in the name of the State, upon the relation of such attorney for the Commonwealth, or the Attorney General, to enjoin and restrain such person from committing, or permitting, such prohibited act or acts. The procedure in any such suit shall be similar to the procedure in other suits for injunctions, except that no bond shall be required upon the granting of either a temporary or permanent injunction therein.

Source: § 18.1-343.

§ 18.2-340. County ordinances prohibiting illegal gambling. — The governing body of any county is hereby authorized and empowered to adopt ordinances prohibiting illegal gambling and other illegal activity related thereto, including provision for forfeiture proceedings in the name of the county. Such ordinances shall not be in conflict with the provisions of this article or with other state laws and any penalties provided for violation of such ordinances shall not exceed a fine of one thousand dollars or imprisonment in jail for twelve months, either or both.

Source: § 18.1-342.

Note: This section has been enlarged to apply to all counties.

Article 2.

Sunday Offenses.

§ 18.2-341. Working or transacting business on Sunday; penalty. — On the first day of the week, commonly known and designated as Sunday, no person shall engage in work, labor or business or to employ others to engage in work, labor or business except in household or other work of necessity or charity. The exception for works of charity prescribed by this section shall be deemed applicable only to activities conducted solely for charitable purposes by any person or organization not organized or engaged in business for a profit. The dedication to charity of the proceeds, or any part thereof, from the sale on Sunday of any merchandise included in a class of property enumerated in this section by a person or organization generally engaged in the conduct of business or labor for profit shall not be deemed a work of charity for purposes of this section. The exemption for works of necessity contained in this section

shall not be deemed to include selling at retail or wholesale or by auction, or offering or attempting to sell, on Sunday, any of the following: jewelry; precious and semiprecious stones; silverware; watches; clocks; luggage; musical instruments; recordings; toys (excluding items customarily sold as novelties and souvenirs); clothing and wearing apparel; clothing accessories; footwear; textile yard goods; housewares; china; kitchenware; home, business, office or outdoor furniture, furnishings and appliances; sporting goods (excluding sales or rental of bathing, boating, and sales or rental on the premises where sports, athletic events or recreational facilities are located or conducted of equipment essential to the normal use or operation of such premises for the purposes specified); pets, pet equipment or supplies; cameras and photographic supplies (excluding film and flashbulbs); hardware (excluding light bulbs, batteries and electrical fuses); tools; paints; building and lumber supplies and materials; motor vehicles; trailers (excluding mobile homes); farm implements; lawn or garden equipment and supplies. No inference shall arise from the foregoing enumeration of classes of personal property that sales or offers or attempts to sell other classes of personal property not mentioned are included within the above exemption for works of necessity or charity. This section shall not apply to furnaces, kilns, plants, wholesale food warehouses, ship chandleries, or to the manufacture or sale of ice, and other business of like kind that may be necessary to be conducted on Sunday, nor to the publication, distribution and sale of newspapers or magazines, nor to the servicing, fueling or emergency repair of motor vehicles, boats or aircraft, nor to the operation of motion picture theaters, nor to sports, athletic events, scenic, historic and recreational and amusement facilities, nor to the sale during a holiday season of evergreen trees, holly, mistletoe or similar plants grown and customarily sold for home decoration, nor to the sale of fishing paraphernalia and equipment; nor to the sale of food intended for human consumption.

Any person violating any provision of this section shall be guilty of a class 1 misdemeanor. Each separate sale, offer or attempt to sell on Sunday the classes of personal property enumerated in this section, and each Sunday a person engaged in other work, labor or business in violation of any provision in this section, or employs others to be so engaged, shall constitute a separate offense.

Source: §§ 18.1-358 and 18.1-358.3.

§ 18.2-342. Additional enforcement of § 18.2-341 by injunction. — In addition to the punishment provided for in § 18.2-341, the courts of record of this Commonwealth having general equity jurisdiction are hereby invested with jurisdiction and power, after conviction in that jurisdiction of a violation of § 18.2-341, to enjoin any subsequent violation by the person convicted upon petition of the attorney for the Commonwealth of any county or city or any person. For purposes of this section and §§ 18.2-341 and 18.2-343, the term "person" shall mean any individual, corporation, partnership, association or other organization. Nothing contained herein shall be construed to permit any fine or penalty against any nonsupervisory employee or agent who has been caused, directed, or authorized by his employer to violate the provisions of § 18.2-341 in which case the employer shall be subject to the sanctions prescribed by this section and § 18.2-341.

Source: § 18.1-358.3.

§ 18.2-343. Observance of Saturday. — Section 18.1-341 shall not apply to any person who conscientiously believes that the seventh day of the week ought to be observed as a Sabbath, and actually refrains from all secular business and labor on that day, provided he does not compel an apprentice or servant, not of his belief, to do secular work or business on a Sunday.

Source: § 18.1-359.

Article 3.

Sexual Offenses, Prostitution, etc.

§ 18.2-344. Fornication defined; penalty. — Any person, not being married, who voluntarily shall have sexual intercourse with any other person, shall be guilty of fornication, punishable as a class 4 misdemeanor.

Source: §§ 18.1-188 and 18.1-190.

Note: The offense of adultery has been placed in § 18.2-365.

§ 18.2-345. Lewd and lascivious cohabitation. — If any persons, not married to each other, lewdly and lasciviously associate and cohabit together, or, whether married or not, be guilty of open and gross lewdness and lasciviousness, each of them shall be guilty of a class 3 misdemeanor; and upon a repetition of the offense, and conviction thereof, each of them shall be guilty of a class 1 misdemeanor.

Source: § 18.1-193.

§ 18.2-346. Being a prostitute and prostitution defined. — Any person who, for money or its equivalent, commits adultery or fornication or offers to commit adultery or fornication and thereafter does any substantial act in furtherance thereof, shall be guilty of being a prostitute, or prostitution, which shall be punishable as a class 1 misdemeanor.

Source: § 18.1-194.

§ 18.2-347. Keeping, residing in or frequenting a bawdy place; "bawdy place" defined. — It shall be unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such bawdy place. Each and every day such bawdy place shall be kept, resided in or visited, shall constitute a separate offense. In a prosecution under this section the general reputation of the place may be proved.

As used in this Code, "bawdy place" shall mean any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution.

Source: §§ 18.1-195 and 18.1-196.

§ 18.2-348. Aiding prostitution or illicit sexual intercourse. — It shall be unlawful for any person or any officer, employee or agent of any firm, association or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or without any building or structure, used or to be used for the purpose of lewdness, assignation or prostitution within this State; or procure or assist in procuring for the purpose of illicit sexual intercourse, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution.

Source: § 18.1-197.

§ 18.2-349. Using vehicles to promote prostitution or unlawful sexual intercourse. — It shall be unlawful for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or to allow the same to be used for the purpose of prostitution or unlawful sexual intercourse, or to aid or promote such prostitution or unlawful sexual intercourse by the use of any such vehicle.

Source: § 18.1-198.

§ 18.2-350. Confinement of convicted prostitutes and persons violating §§

18.2-347 through 18.2-349. — Every person convicted of being a prostitute and every person convicted of violating any of the provisions of §§ 18.2-347 through 18.2-349 shall be guilty of a class 1 misdemeanor; provided, however, that in any case in which a city or county farm or hospital is available for the confinement of persons so convicted, confinement may be in such farm or hospital, in the discretion of the court or judge.

Source: § 18.1-199.

§ 18.2-351. Commitment of persons convicted of certain offenses; investigation and report; reduction of period. — Whenever any court of record or judge thereof, or any general district court or juvenile and domestic relations district court or judge thereof, in the exercise of sound discretion shall determine that it is necessary for the protection of the public health or safety or for the promotion of the public welfare, through the rehabilitation of any person, such court or judge may, in lieu of imposing any sentence or fine provided by law for such offenses, commit to the control and supervision of the Director of the Department of Welfare and Institutions for rehabilitation, for an indeterminate period of not less than three months nor more than twelve months any person who, in such court or before such judge, is convicted in this State:

(1) Of being a prostitute, or

(2) Of being a keeper, inmate or frequenter of a bawdy place, or

(3) Of soliciting for immoral purposes, or

(4) Of contributing to the delinquency, neglect or dependency of a minor.

When a person is tried for any offense enumerated in this section or is adjudged guilty of such offense, the court may, before fixing punishment, imposing sentence, or ordering a commitment, direct any probation officer or agency performing probation services for such court to thoroughly investigate and report upon the history of the accused and any and all relevant facts, to the end that the court may be fully advised as to the appropriate and just sentence to be imposed or commitment to be ordered.

All such institutions, except State institutions, shall receive from the State the same fees as are allowed by law to jailers.

During any such period of commitment, the committing court or judge thereof may, upon its own motion or upon application of the Director, reduce such period of commitment.

Source: § 18.1-200.

§ 18.2-352. Examination and investigation of such persons; reports to committing court. — The Department of Welfare and Institutions shall make a careful physical, mental and social examination of every person committed to it under the provisions of § 18.2-351, and shall investigate such person's personal and family history in order that it may properly evaluate the convicted person's progress during confinement. The committing court may require the Department to report at any time or times, subsequent to the minimum commitment period prescribed by § 18.2-351, upon the Department's observations, findings and recommendations with respect to any such person and terminate such sentence or change it to probation at any time upon recommendation of the Department of Welfare and Institutions.

Source: § 18.1-201.

§ 18.2-353. Probation or release of such persons. — If the Director of Welfare and Institutions finds it not possible or expedient to place such persons as are committed to him under the provisions of § 18.2-351 in the institutions

referred to in that section, the committing court on application of the Director may place such persons on probation. The Director or his authorized agents may at any time order the release of such persons when satisfied that such release is conducive to the welfare of such persons and will not be detrimental to the public health or the public welfare, and may prescribe reasonable terms or conditions upon which such release is granted. If any person so released violates the terms or conditions of his or her release, the general district court or juvenile and domestic relations district court exercising jurisdiction in the city or county wherein such violation occurs may revoke the order of release and direct his or her apprehension and detention by the proper law enforcement officers and his or her return to the Director, and such court, on its own motion or on application of the Director, may recommit such person to an institution or make such other disposition as may be provided by law. In no case shall the total period of probation, confinement, supervision and reconfinement exceed three years.

Source: § 18.1-202.

§ 18.2-354. Sale of drugs or devices to prevent venereal disease. — (1) No drug, medicinal preparation, appliance, device or other article intended or having special utility for the prevention of venereal disease, hereinafter referred to as device, shall be sold or otherwise disposed of in this State except by duly licensed practitioners of medicine; and in pharmacies and retail outlets. Pharmacies and retail stores desiring to sell such devices shall apply in writing to the State Board of Pharmacy and the Board shall issue a permit for the sale thereof. Such devices may be sold by wholesalers regularly transacting business as such, but it shall be unlawful for any wholesaler to knowingly sell such devices to any unlicensed retailer.

(2) The offering for sale, distribution or other disposition by means of a vending machine or other automatic machine of such devices is expressly prohibited.

(3) Any such vending machine or other automatic machine shall be destroyed when found in violation hereof. Possession of such devices by any unlicensed retailer in his place of business shall be prima facie evidence of sale.

(4) The State Board of Pharmacy shall enforce the terms of this section and may establish minimum standards of quality for such devices which standards of quality shall be such as will tend to reduce the likelihood of contracting a venereal disease.

(5) Any person who violates any of the provisions of this section or regulation of the Board shall be guilty of a class 3 misdemeanor.

Source: § 18.1-203.

§ 18.2-355. Taking, detaining, etc., female for prostitution, etc., or consenting thereto. — Any person who:

(1) For purposes of prostitution or unlawful sexual intercourse, takes any female into, or persuades, encourages or causes any female to enter, a bawdy place, or takes or causes her to be taken to any place against her will for such purposes; or,

(2) Takes or detains a female against her will with the intent to compel her, by force, threats, persuasions, menace or duress, to marry him or to marry any other person, or to be defiled; or,

(3) Being parent, guardian or legal custodian of a female, consents to her being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse;

Is guilty of pandering, and shall be guilty of a class 4 felony.

Source: § 18.1-204.

§ 18.2-356. Receiving money for procuring female. — Any person who shall receive any money or other valuable thing for or on account of procuring for or placing in a house of prostitution or elsewhere any female for the purpose of causing her to engage in unlawful sexual intercourse shall be guilty of a class 4 felony.

Source: § 18.1-206.

§ 18.2-357. Receiving money from earnings of female prostitute. — Any person who shall knowingly receive any money or other valuable thing from the earnings of any female engaged in prostitution, except for a consideration deemed good and valuable in law, shall be guilty of pandering, punishable as a class 4 felony.

Source: § 18.1-208.

§ 18.2-358. Detaining female in bawdy place against her will. — Any person who shall detain any female in a bawdy place against her will, shall be guilty of a class 4 felony.

Source: § 18.1-209.

§ 18.2-359. Venue where female transported for purposes of unlawful sexual intercourse. — Any person transporting or attempting to transport through or across this State, any female for the purposes of unlawful sexual intercourse or prostitution, may be presented, indicted, tried and convicted in any county or city in which any part of such transportation may have taken place.

Source: § 18.1-210.

§ 18.2-360. Competency of females to testify in prosecutions under §§ 18.2-355 through 18.2-361. — Any female referred to in §§ 18.2-355 through 18.2-361 shall be a competent witness in any prosecution under such sections to testify to any and all matters, including conversations with the accused or by him with third persons in her presence, notwithstanding she may have married the accused either before or after the violation of any of the provisions of this section; but she shall not be compelled to testify after such marriage.

Source: § 18.1-211.

§ 18.2-361. Crimes against nature. — If any person shall carnally know in any manner any brute animal, or carnally know any male or female person by the anus or by or with the mouth, or voluntarily submit to such carnal knowledge, he or she shall be guilty of a class 6 felony.

If any person shall by force carnally know any male or female person by the anus or by or with the mouth he or she shall be guilty of a class 4 felony.

Source: § 18.1-212.

Article 4.

Family Offenses; Crimes Against Children, Etc.

§ 18.2-362. Person marrying when husband or wife is living. — If any person, being married, shall, during the life of the husband or wife, marry another person in this State, or if the marriage with such other person take place out of the State, shall thereafter cohabit with such other person in this State, he or she shall be guilty of a class 4 felony.

Source: § 20-41.

§ 18.2-363. Leaving the State to evade law against bigamy. — If any persons, resident in this State, one of whom has a husband or wife living, shall, with the intention of returning to reside in this State, go into another state or country and there intermarry and return to and reside in this State cohabiting as man and wife, such marriage shall be governed by the same law, in all respects, as if it had been solemnized in this State.

Source: § 20-44.

§ 18.2-364. Exceptions to preceding sections. — Sections 18.2-362 and 18.2-363 shall not extend to a person whose husband or wife shall have been continuously absent from such person for seven years next before marriage of such person to another, and shall not have been known by such person to be living within that time; nor to a person who can show that the second marriage was contracted in good faith under a reasonable belief that the former consort was dead; nor to a person who shall, at the time of the subsequent marriage, have been divorced from the bond of the former marriage; nor to a person whose former marriage was void.

Source: § 20-42.

§ 18.2-365. Adultery defined; penalty. — Any person, being married, who voluntarily shall have sexual intercourse with any person not his or her spouse shall be guilty of adultery, punishable as a class 4 misdemeanor.

Source: §§ 18.1-187 and 18.1-190.

§ 18.2-366. Adultery and fornication by persons forbidden to marry; incest. — If any person commit adultery or fornication with any person whom he or she is forbidden by law to marry, such person shall be guilty of a class 1 misdemeanor; provided, however, that if such person commit adultery or fornication with his daughter or granddaughter, or with her son or grandson, or her father or his mother, such person shall be guilty of a class 5 felony.

Source: § 18.1-191.

§ 18.2-367. Conspiring to cause spouse to commit adultery. — If any person, being married, shall conspire with any other person or persons to cause the spouse of such married person to commit adultery and any act in furtherance of such conspiracy is done, such married person shall be guilty of a class 5 felony; and if any person shall conspire with a married person to cause the spouse of such married person to commit adultery and any act in furtherance of such conspiracy is done, such person shall be guilty of a class 6 felony.

Source: § 18.1-192.

§ 18.2-368. Placing or leaving wife for prostitution. — Any person who, by force, fraud, intimidation or threats, places or leaves, or procures any other person to place or leave his wife in a bawdy place for the purpose of prostitution or unlawful sexual intercourse, shall be guilty of pandering, punishable as a class 4 felony.

Source: § 18.1-207.

§ 18.2-369. Disruption of marital relationship a misdemeanor; jurisdiction. — Any person who shall knowingly cause or contribute to the disruption of a marital relationship shall be guilty of a class 3 misdemeanor, and jurisdiction of such offense shall be cognizable under the provisions of § 16.1-158.

Source: Part of § 20-37.2.

§ 18.2-370. Taking indecent liberties with children. — Any person eighteen years of age or over, who, with lascivious intent, shall knowingly and intentionally:

(1) Expose his or her sexual or genital parts to any child under the age of fourteen years to whom such person is not legally married; or

(2) In any manner fondle or feel, or attempt to fondle or feel, the sexual or genital part of any such child, or the breast of any such female child; or

(3) Propose that any such child feel or fondle the sexual or genital parts of such person; or

(4) Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under § 18.2-361; or

(5) Entice, allure, persuade or invite any such child to enter any vehicle, room, house or other place, for any of the purposes set forth in the preceding subparagraphs of this section;

shall be guilty of a class 6 felony.

Source: §§ 18.1-213, 18.1-214 and 18.1-215.

§ 18.2-371. Causing or encouraging children under eighteen years of age to commit misdemeanors, etc. — Any person eighteen years of age or older, including the parent of any child, who shall cause or encourage any child under the age of eighteen years to commit any misdemeanor, or who shall send or cause any such child to go into any place for an unlawful purpose, or who shall in any way subject any such child to vicious or immoral influences, or who shall induce, cause, encourage or contribute toward the dependency, neglect or delinquency of any such child, shall be guilty of a class 1 misdemeanor; but when the offense consists of having or attempting to have intercourse with any female child under the age of eighteen years, the fact that such female was not of previous chaste character or had been married may be shown in mitigation. This section shall not be construed as repealing, modifying or in any way affecting §§ 18.2-18, 18.2-19, 18.2-61 through 18.2-66, 18.2-68 and 18.2-347.

Source: § 18.1-14.

Article 5.

Obscenity and Related Offenses.

§ 18.2-372. "Obscene" defined. — The word "obscene" where it appears in this article shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sado-masochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

Source: § 18.1-227.

Note: This section has been slightly changed to conform to recent decisions of the Supreme Court of the United States.

§ 18.2-373. Obscene items enumerated. — Obscene items shall include:

(1) Any obscene book; or

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, photograph, film, negative, slide, motion picture; or

(3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds.

Source: § 18.1-229.

§ 18.2-374. Production, publication, sale, possession, etc., of obscene items. — It shall be unlawful for any person knowingly to:

(1) Prepare any obscene item for the purposes of sale or distribution; or

(2) Print, copy, manufacture, produce, or reproduce any obscene item for purposes of sale or distribution; or

(3) Publish, sell, rent, lend, transport in intrastate commerce, or distribute or exhibit any obscene item, or offer to do any of these things; or

(4) Have in his possession with intent to sell, rent, lend, transport, or distribute any obscene item. Possession in public or in a public place of any obscene item as defined in this article shall be deemed prima facie evidence of a violation of this section.

For the purposes of this section, "distribute" shall mean delivery in person, by mail, messenger or by any other means by which obscene items as defined in this article may pass from one person, firm or corporation to another.

Source: § 18.1-228.

§ 18.2-375. Obscene exhibitions and performances. — It shall be unlawful for any person knowingly to:

(1) Produce, promote, prepare, present, manage, direct, carry on or participate in, any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene; provided, that no employee of any person or legal entity operating a theatre, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theatre or an officer of such entity, and has no financial interest in such theatre other than receiving salary and wages; or

(2) Own, lease or manage any theatre, garden, building, structure, room or place and lease, let, lend or permit such theatre, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theatre, garden, building, structure, room or place.

Source: § 18.1-230.

§ 18.2-376. Advertising, etc., obscene items, exhibitions or performances. — It shall be unlawful for any person knowingly to prepare, print, publish, or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in § 18.2-373, or of any obscene performance or exhibition proscribed in § 18.2-375, stating or indicating where such obscene item, exhibition, or performance may be purchased, obtained, seen or heard.

Source: § 18.1-231.

§ 18.2-377. Placards, posters, bills, etc. — It shall be unlawful for any person knowingly to expose, place, display, post-up, exhibit, paint, print, or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or

on any street, or in or upon any public place, any placard, poster, banner, bill, writing, or picture which is obscene, or which advertises or promotes any obscene item proscribed in § 18.2-373 or any obscene exhibition or performance proscribed in § 18.2-375, or knowingly to permit the same to be displayed on property belonging to or controlled by him.

Source: § 18.1-232.

§ 18.2-378. Coercing acceptance of obscene articles or publications. — It shall be unlawful for any person, firm, association or corporation, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication to require that the purchaser or consignee receive for resale any other article, book, or other publication which is obscene; nor shall any person, firm, association or corporation deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof.

Source: § 18.1-233.

§ 18.2-379. Employing or permitting minor to assist in offense under article. — It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this article.

Source: § 18.1-234.

§ 18.2-380. Punishment for first offense. — Any person, firm, association or corporation, convicted for the first time of an offense under §§ 18.2-373 through 18.2-379, shall be guilty of a class 1 misdemeanor.

Source: § 18.1-235.1.

§ 18.2-381. Subsequent offenses. — Any person, firm, association or corporation convicted of a second or other subsequent offense under §§ 18.2-373 through 18.2-379 shall be guilty of a class 6 felony.

Source: § 18.1-236.1.

§ 18.2-382. Photographs, slides and motion pictures. — Every person who knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; shall be guilty of a class 3 misdemeanor.

Source: § 18.1-235.

§ 18.2-383. Exceptions to application of article. — Nothing contained in this article shall be construed to apply to:

(1) The purchase, distribution, exhibition, or loan of any book, magazine, or other printed or manuscript material by any library, school, or institution of higher learning, supported by public appropriation;

(2) The purchase, distribution, exhibition, or loan of any work of art by any museum of fine arts, school, or institution of higher learning, supported by public appropriation;

(3) The exhibition or performance of any play, drama, tableau, or motion

picture by any theatre, museum of fine arts, school or institution of higher learning, supported by public appropriation.

Source: § 18.1-236.2.

§ 18.2-384. Proceeding against book alleged to be obscene. — (1) Whenever he has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book, any citizen or the attorney for the Commonwealth of any county or city, or city attorney, in which the sale or commercial distribution of such book occurs may institute a proceeding in the circuit court in said city or county for adjudication of the obscenity of the book.

(2) The proceeding shall be instituted by filing with the court a petition

(a) directed against the book by name or description;

(b) alleging the obscene nature of the book, and

(c) listing the names and addresses, if known, of the author, publisher, and all other persons interested in its sale or commercial distribution.

(3) Upon the filing of a petition pursuant to this article, the court in term or in vacation shall forthwith examine the book alleged to be obscene. If the court find no probable cause to believe the book obscene, the judge thereof shall dismiss the petition; but if the court find probable cause to believe the book obscene, the judge thereof shall issue an order to show cause why the book should not be adjudicated obscene.

(4) The order to show cause shall be:

(a) directed against the book by name or description;

(b) published once a week for two successive weeks in a newspaper of general circulation within the county or city in which the proceeding is filed;

(c) if their names and addresses are known, served by registered mail upon the author, publisher, and all other persons interested in the sale or commercial distribution of the book; and

(d) returnable twenty-one days after its service by registered mail or the commencement of its publication, whichever is later.

(5) When an order to show cause is issued pursuant to this article, and upon four days' notice to be given to the persons and in the manner prescribed by the court, the court may issue a temporary restraining order against the sale or distribution of the book alleged to be obscene.

(6) On or before the return date specified in the order to show cause, the author, publisher, and any person interested in the sale or commercial distribution of the book may appear and file an answer. The court may by order permit any other person to appear and file an answer amicus curiae.

(7) If no one appears and files an answer on or before the return date specified in the order to show cause, the court, upon being satisfied that the book is obscene, shall order the clerk of court to enter judgment that the book is obscene, but the court in its discretion may except from its judgment a restricted category of persons to whom the book is not obscene.

(8) If an appearance is entered and an answer filed, the court shall order the proceeding set on the calendar for a prompt hearing. The court shall conduct the hearing in accordance with the rules of civil procedure applicable to the trial of cases by the court without a jury. At the hearing, the court shall receive evidence, including the testimony of experts, if such evidence be offered, pertaining to:

(a) the artistic, literary, medical, scientific, cultural and educational values, if any, of the book considered as a whole;

(b) the degree of public acceptance of the book, or books of similar character, within the county or city in which the proceeding is brought;

(c) the intent of the author and publisher of the book;

(d) the reputation of the author and publisher;

(e) the advertising, promotion, and other circumstances relating to the sale of the book;

(f) the nature of classes of persons, including scholars, scientists, and physicians, for whom the book may not have prurient appeal, and who may be subject to exception pursuant to subsection (7).

(9) In making a decision on the obscenity of the book, the court shall consider, among other things, the evidence offered pursuant to subsection (8), if any, and shall make a written determination upon every such consideration relied upon in the proceeding in his findings of fact and conclusions of law or in a memorandum accompanying them.

(10) If he finds the book not obscene, the court shall order the clerk of court to enter judgment accordingly. If he find the book obscene, the court shall order the clerk of court to enter judgment that the book is obscene, but the court, in its discretion, may except from its judgment a restricted category of persons to whom the book is not obscene.

(11) While a temporary restraining order made pursuant to subsection (5) is in effect, or after the entry of a judgment pursuant to subsection (7), or after the entry of judgment pursuant to subsection (10), any person who publishes, sells, rents, lends, transports in intrastate commerce, or commercially distributes or exhibits the book, or has the book in his possession with intent to publish, sell, rent, lend, transport in intrastate commerce, or commercially distribute or exhibit the book, is presumed to have knowledge that the book is obscene under §§ 18.2-372 through 18.2-378 of this article.

(12) Any party to the proceeding, including the petitioner, may appeal from the judgment of the court to the Supreme Court of Virginia, as otherwise provided by law.

(13) It is expressly provided that the petition and proceeding authorized under this article, relating to books alleged to be obscene, shall be intended only to establish scienter in cases where the establishment of such scienter is thought to be useful or desirable by the petitioner; and the provisions of § 18.2-384 shall in nowise be construed to be a necessary prerequisite to the filing of criminal charges under this article.

Source: § 18.1-236.3.

§ 18.2-385. Section 18.2-384 applicable to motion picture films. — The provisions of § 18.2-384 shall apply mutatis mutandis in the case of motion picture film.

Source: § 18.1-236.4.

§ 18.2-386. Showing previews of certain motion pictures. — It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken. Persons violating the provisions of this section shall be guilty of a class 1 misdemeanor.

Source: § 18.1-246.1.

§ 18.2-387. Indecent exposure. — Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a class 1 misdemeanor.

Source: § 18.1-236.

§ 18.2-388. Profane swearing and drunkenness. — If any person profanely curse or swear or be drunk in public he shall be deemed guilty of a class 4 misdemeanor.

If any person shall be convicted for being drunk in public three times within one year in this State, upon the third or any subsequent conviction for such offense within the period of one year, such person shall be guilty of a class 3 misdemeanor.

Source: § 18.1-237.

§ 18.2-389. Adoption of ordinances prohibiting obscenity. — The governing body of any county or city is authorized to adopt ordinances to prohibit obscenity or conduct paralleling the provisions of this article, provided that such governing body may not provide a penalty for violating the provisions of such ordinance which is greater than confinement in jail not to exceed twelve months or by a fine not to exceed one thousand dollars, either or both, and provided that the penalty is not greater than the penalty imposed for similar offenses under the provisions of this article.

Source: § 18.1-236.5.

Article 6.

Prohibited Sales and Loans to Juveniles.

§ 18.2-390. Definitions. — As used in this article:

(1) "Juvenile" means a person less than eighteen years of age.

(2) "Nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) "Harmful to juveniles" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly appeals to the prurient, shameful or morbid interest, (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles, and (c) is utterly without redeeming social importance for juveniles.

(7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of

both (a) the character and content of any material described herein which is reasonably susceptible of examination by the defendant, and (b) the age of the juvenile, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

Source: § 18.1-236.6.

§ 18.2-391. Unlawful acts. — (a) It shall be unlawful for any person knowingly to sell or loan to a juvenile:

(1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

(b) It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(c) It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection (a) or subsection (b) hereof, or to his agent, that such juvenile is eighteen years of age or older, with the intent to procure any material set forth in subsection (a), or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (b).

(d) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (a) or subsection (b) hereof or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is eighteen years of age, with the intent to procure any material set forth in subsection (a), or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (b).

(e) Violation of any provision hereof shall constitute a class 1 misdemeanor.

Source: § 18.1-236.7.

Article 7.

Cruelty to Animals.

§ 18.2-392. Cruelty to animals a misdemeanor. — Any person who (1) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another, or deprives any animal of necessary sustenance, food, or drink, or causes any of the above things, or being the owner of such animal permits such acts to be done by

another, or (2) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (3) shall carry or cause to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal, or inhuman manner, so as to produce torture or unnecessary suffering, shall be guilty of a class 1 misdemeanor; but nothing in this section shall be construed to prohibit the dehorning of cattle.

Source: § 18.1-216.

§ 18.2-393. Soring horses. — For the purposes of this section, a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, including, but not limited to chains or boots, which may reasonably be expected currently (1) to result in physical pain to the horse when walking, trotting, or otherwise moving, or (2) to cause extreme fear or distress to the horse.

It shall be unlawful for any person to deliver or receive into this State for the purpose of showing or exhibiting, any horse which such person has reason to believe is suffering from the effects of being sored, or who shows or exhibits or enters for the purpose of showing or entering in any horse show or exhibition, any horse which such person has reason to believe is sored, or to show or to exhibit or to enter or conduct any horse show or exhibition in which there is shown or exhibited a horse which such person has reason to believe is sored.

Any person who violates any provision of this section shall be guilty of a class 3 misdemeancr.

Source: § 18.1-216.1.

§ 18.2-394. Fighting cocks, dogs, etc. — If any person engage in the fighting of cocks, dogs or other animals, for money, prize or anything of value, or upon the result of which any money or other thing of value is bet or wagered, or to which an admission fee is charged, directly or indirectly, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-242.

§ 18.2-395. Shooting of pigeons, etc., for amusement, and renting premises for such purposes. — Whoever keeps or uses a live pigeon or other bird or fowl for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof for the purpose of such shooting, shall be guilty of a class 4 misdemeanor. Nothing herein contained shall apply to the shooting of wild game.

Source: § 18.1-246.

§ 18.2-396. Meaning of "animal." — The word "animal," as used in this article, shall be construed to include birds and fowl.

Source: § 18.1-225.

§ 18.2-397. Officers and agents of societies for the prevention of cruelty to animals may arrest offenders. — Any officer or agent of any society duly incorporated under the laws of this State for the prevention of cruelty to animals, whose appointment shall have been approved as hereinafter provided, shall have power to arrest, without warrant, any person found violating in his presence any of the provisions of law concerning cruelty to animals, and upon

making such arrest shall forthwith convey the person arrested before some court or magistrate having jurisdiction of the offense and there make complaint against him. And any such officer or agent shall have power to execute any warrant issued by a magistrate for the violation of any of such provisions, whether the offense was committed in his presence or not.

But such officers and agents shall not be authorized to make such arrests within any political subdivision, unless their appointment has been approved by the judge of the circuit court thereof.

Source: § 18.1-217.

§ 18.2-398. Bonds and certificates of such agents; expenses. — Each such officer and agent shall give bond with surety in the circuit court of the county, or city, in which the principal office of the society appointing him is located, in the penalty of five hundred dollars, with security conditioned according to law that such officer or agent will not knowingly make a false or improper arrest. Such bond shall be effective and operative in any county or corporation for which such agent may be subsequently appointed. Such officers and agents shall be provided with a certificate by the society appointing them that they are such officers or agents, in such form as the directors of the society may choose. Such certificate shall also bear the written approval by the circuit judge of such appointment, as provided for in § 18.2-397. And such officers and agents shall, if requested, show such certificate when acting officially.

In no case shall the appointment of such officers or agents, or any services performed by them, entail any cost or expense upon such county or municipal corporation or upon the State.

Source: § 18.1-218.

§ 18.2-399. Such agents shall prevent cruelty to animals; interference with such agents. — Any such officer or agent whose appointment shall have been approved as provided in § 18.2-397 shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence, and every person who shall interfere with or obstruct or resist any such officer or agent in the discharge of his rights, powers, and duties as authorized and prescribed by law shall be deemed guilty of a class 4 misdemeanor.

Source: § 18.1-219.

§ 18.2-400. Power of search for violations of statutes against cruelty to animals. — When a sworn complaint is made to any proper authority by any such agent or officer that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search such building or place; but no such search shall be made after sunset unless specially authorized by such authority upon satisfactory cause shown.

Source: § 18.1-220.

§ 18.2-401. When animals to be destroyed; procedure. — Any such officer or agent may lawfully destroy, or cause to be destroyed, any animal in his charge or found abandoned or not properly cared for, when, in the judgment of such officer or agent and two reputable citizens called to view the same in his presence, and who shall give their written certificate thereto, such animal appears to be injured, disabled or diseased, past recovery, or the injury, disease or disability, is such that a reasonable owner would cause the animal to be destroyed.

Any such officer or agent shall make every reasonable effort immediately to notify the owner of such animal that such officer or agent intends the animal to be destroyed, and such owner shall have a right to select one of the two reputable citizens called to view the animal and give written certificate thereto; but in no event shall the determination as to disposition of the animal be delayed beyond forty-eight hours after such officer or agent first decides the animal should be destroyed. In the event that the two citizens called to give such certificate are unable to agree, they shall select a third reputable citizen and his decision shall be final.

Source: § 18.1-221.

§ 18.2-402. When agent or officer may take charge of animals; notice and hearing to determine whether owner is fit person to care for animal; disposition of animal; disposition of proceeds upon sale. — Any such officer or agent may lawfully take charge of any animal found abandoned, neglected, or cruelly treated or unfit for use, and shall forthwith petition any judge of a general district court in any city or county, wherein such animal is found, for a hearing to be set not more than ten days from the date of the seizure of such animal to determine whether the owner, if known, is able to adequately provide for such animal and is a fit person to own such animal; the officer or agent shall cause to be served upon the owner, if known and residing within the jurisdiction wherein such animal is found, written notice at least five days prior to said hearing of the time and place of such hearing; if the owner is known but residing out of the jurisdiction where such animal is found, written notice by any method or service of process as is provided by the Code of Virginia, shall be given; if the owner is not known, the officer or agent shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is found notice of the said hearing at least one time prior to said hearing and shall further cause notice of said hearing to be posted at least five days prior to said hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be had; the officer or agent may provide for such animal until the owner is adjudged by the court able to adequately provide for such animal and a fit person to own such animal, in which case the animal shall be forthwith returned to such owner, but if the owner is adjudged by the court unable to adequately provide for such animal or not a fit person to own such animal then the court shall order that such animal be sold by the officer or agent at public auction or destroyed as deemed proper by the court, but in no case shall the person adjudged unable to adequately provide for such animal or adjudged an unfit person to own such animal be allowed to purchase such animal at said sale; the court in determining whether the owner is able to adequately provide for such animal or is a fit person to own such animal may take into consideration among other things the owner's past record of convictions under this article or one similar thereto prohibiting cruelty to animals and the owner's mental and physical condition; and in case of sale the proceeds shall first be applied to the costs of the sale then next to the expenses for the care and provision of such animal and the remaining proceeds, if any, shall be paid over to the owner of such animal, and if the owner of such animal cannot be found the proceeds remaining shall be paid into the Literary Fund of the State treasury.

Source: § 18.1-223.

§ 18.2-403. Jurisdiction of judges of general district courts; right of appeal. — The provisions of this article may be enforced by any judge of the general district court in cities or counties wherein the offense is committed, or the offender or owner may be found, and every such offender shall have the right of appeal to the appropriate circuit court.

Source: § 18.1-226.

Chapter 9.

Crimes Against Peace and Order.

Article 1.

Riot and Unlawful Assembly.

§ 18.2-404. Obstructing free passage of others. — Any person or persons who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such place or property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law-enforcement officer shall be guilty of a class 1 misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing.

Source: § 18.1-254.01.

§ 18.2-405. What constitutes a riot; punishment. — Any unlawful use, by three or more persons acting together, of force or violence which seriously jeopardizes the public safety, peace or order is riot.

Every person convicted of participating in any riot shall be guilty of a class 1 misdemeanor.

If such person carried, at the time of such riot, any firearm or other deadly or dangerous weapon, he shall be guilty of a class 5 felony.

Source: §§ 18.1-254.1 and 18.1-254.2.

§ 18.2-406. What constitutes an unlawful assembly; punishment. — Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly. Every person who participates in any unlawful assembly shall be guilty of a class 1 misdemeanor. If any such person carried, at the time of his participation in an unlawful assembly, any firearm or other deadly or dangerous weapon, he shall be guilty of a class 5 felony.

Source: §§ 18.1-254.1 and 18.1-254.3.

§ 18.2-407. Remaining at place of riot or unlawful assembly after warning to disperse. — Every person, except the owner or lessee of the premises, his family and nonrioting guests, and public officers and persons assisting them, who remains at the place of any riot or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a class 3 misdemeanor.

Source: § 18.1-254.4.

§ 18.2-408. Conspiracy; incitement, etc., to riot. — Any person who conspires with others to cause or produce a riot, or directs, incites, or solicits other persons who participate in a riot to acts of force or violence, shall be guilty of a class 5 felony.

Source: § 18.1-254.5:1.

§ 18.2-409. Resisting or obstructing execution of legal process. — Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be guilty of a class 1 misdemeanor.

Source: § 18.1-254.6.

§ 18.2-410. Power of Governor to summon law-enforcement agencies, national guard, etc., to execute process or preserve the peace. — If it appears to the Governor that the power of the locality is not sufficient to enable the sheriff or other officer to execute process delivered to him or to suppress riots and to preserve the peace, he may order law-enforcement agencies, national guard, militia or other agencies of the State or localities as may be necessary to execute such process and to preserve the peace. All persons so ordered or summoned by the Governor are required to attend and act. Any person who, without lawful cause, refuses or neglects to obey the command, shall be guilty of a class 1 misdemeanor.

Source: § 18.1-254.7.

§ 18.2-411. Dispersal of unlawful or riotous assemblies; duties of officers. — When any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his deputies, the police officials of the county, city or town, and any assigned militia, or any of them, shall go among the persons assembled or as near to them as safety will permit and command them in the name of the State immediately to disperse. If upon such command the persons unlawfully assembled do not disperse immediately, such sheriff, officer or militia may use such force as is reasonably necessary to disperse them and to arrest those who fail or refuse to disperse. To accomplish this end, the sheriff or other law-enforcement officer may request and use the assistance and services of private citizens. Every endeavor shall be used, both by such sheriff or other officers and by the officer commanding any other force, which can be made consistently with the preservation of life, to induce or force those unlawfully assembled to disperse before an attack is made upon those unlawfully assembled by which their lives may be endangered.

Source: §§ 18.1-254.8 and 18.1-254.9.

§ 18.2-412. Immunity of officers and others in quelling a riot or unlawful assembly. — No liability, criminal or civil, shall be imposed upon any person authorized to disperse or assist in dispersing a riot or unlawful assembly for any action of such person which was taken after those rioting or unlawfully assembled had been commanded to disperse, and which action was reasonably necessary under all the circumstances to disperse such riot or unlawful assembly or to arrest those who failed or refused to disperse.

Source: §§ 18.1-254.8 and 18.1-254.9.

§ 18.2-413. Commission of certain offenses in county, city or town declared by Governor to be in state of riot or insurrection. — Any person, who after the publication of a proclamation by the Governor, or who after lawful notice to disperse and retire, resists or aids in resisting the execution of process in any county, city or town declared to be in a state of riot or insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the Governor or any sheriff or other officer to quell or suppress an insurrection or riot, shall be guilty of a class 5 felony.

Source: § 18.1-254.10.

§ 18.2-414. Injury to property or persons by persons unlawfully or riotously assembled. — If any person or persons, unlawfully or riotously assembled, pull down, injure, or destroy, or begin to pull down, injure or destroy any dwelling house or other building, or assist therein, or perpetrate any premeditated injury on the person of another, he shall be guilty of a class 6 felony.

Source: § 18.1-254.11.

Article 2.

Disorderly Conduct.

§ 18.2-415. Disorderly conduct in public places. — Any person who shall behave in a riotous or disorderly manner or cause any unnecessary disturbance in any street, highway, public building, public place, or while in or on a public conveyance, and any person who shall wilfully interrupt or unnecessarily disturb any meeting of the governing body of any political subdivision of this State or a division or agency thereof, or of any school, literary society or place of religious worship, or who, being intoxicated, shall disturb such a meeting, whether wilfully or not, shall be guilty of a class 1 misdemeanor.

The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

The governing bodies of counties, cities and towns, are authorized to adopt ordinances prohibiting and punishing the acts and conduct prohibited by this section, provided that the punishment fixed therefor shall not exceed that prescribed for a class 1 misdemeanor.

Source: §§ 18.1-253.1, 18.1-253.2, 18.1-253.3, 18.1-239 and 18.1-240.

Article 3.

Abusive and Insulting Language.

§ 18.2-416. Punishment for using abusive language to another. — If any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-255.

§ 18.2-417. Slander and libel. — Any person who shall falsely utter and speak, or falsely write and publish, of and concerning any female of chaste character, any words derogatory of such female's character for virtue and chastity, or imputing to such female acts not virtuous and chaste, or who shall falsely utter and speak, or falsely write and publish, of and concerning another person, any words which from their usual construction and common acceptation are construed as insults and tend to violence and breach of the peace or shall use grossly insulting language to any female of good character or reputation, shall be guilty of a class 3 misdemeanor.

The defendant shall be entitled to prove upon trial in mitigation of the punishment, the provocation which induced the libelous or slanderous words, or any other fact or circumstance tending to disprove malice, or lessen the criminality of the offense.

Source: § 18.1-256.

Article 4.

Picketing of Dwelling Places.

§ 18.2-418. Declaration of policy. — It is hereby declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the

community require that members of the community enjoy in their homes a feeling of well-being, tranquility, and privacy, and when absent from their homes carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes; that the practice of picketing before or about residences and dwelling places causes emotional disturbance and distress to the occupants; that such practice has as its object the harassing of such occupants; and without resort to such practice, full opportunity exists, and under the terms and provisions of this article will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the provisions hereinafter enacted are necessary in the public interest, to avoid the detrimental results herein set forth.

Source: § 18.1-367.1.

§ 18.2-419. Picketing or disrupting tranquility of home. — Any person who shall engage in picketing before or about the residence or dwelling place of any individual, or who shall assemble with another person or persons in a manner which disrupts or threatens to disrupt any individual's right to tranquility in his home, shall be guilty of a class 3 misdemeanor. Each day on which a violation of this section occurs shall constitute a separate offense.

Nothing herein shall be deemed to prohibit (1) the picketing in any lawful manner, during a labor dispute, of the place of employment involved in such labor dispute; (2) the picketing in any lawful manner of a construction site; or (3) the holding of a meeting or assembly on any premises commonly used for the discussion of subjects of general public interest.

Notwithstanding the penalties herein provided, any court of general equity jurisdiction may enjoin conduct, or threatened conduct, proscribed by this article, and may in any such proceeding award damages, including punitive damages, against the persons found guilty of actions made unlawful by this section.

Source: §§ 18.1-367.2 through 18.1-367.6.

Article 5.

Activities Tending to Cause Violence.

§ 18.2-420. "Clandestine organization" defined. — "Clandestine organization" means: Any organization (1) which conceals, or attempts to conceal, its name, activities or membership, or the names, activities or membership of any chapter, branch, unit or affiliate thereof, by the use of cover-names, codes, or any deceptive practice or other means, or (2) whose members shall be required, urged, or instructed, or shall adopt any practice, to conceal their membership or affiliation and that of others in or with such organization, or (3) whose members shall take any oath or pledge, or shall administer any such oath or pledge to those associated with them, to maintain in secrecy any matter or knowledge committed to them by the organization or by any member thereof, or (4) which shall transact business or advance any purpose at any secret meeting or meetings which are guarded or secured against intrusion by persons not associated with it, and (5) whose purpose, policy or activity includes the unlawful use of violence, threats, or intimidation in accomplishing any of its objectives.

Source: § 18.1-380.1.

§ 18.2-421. Information to be filed by clandestine organization with State Corporation Commission. — Every existing membership corporation and every existing unincorporated association which is a clandestine organization as defined in § 18.2-420, shall file with the clerk of the State Corporation Commission a sworn copy of its constitution, bylaws, rules, regulations, and

oath of membership, together with a roster of its membership and a list of its officers for the current year. Every such corporation and association shall, in case its constitution, bylaws, rules, regulations or oath of membership or any part thereof be revised, changed or amended, within ten days after such revision or amendment, file with the clerk of the State Corporation Commission a sworn copy of such revised, changed or amended constitution, bylaw, rule, regulation or oath of membership. Every such corporation or association shall, within thirty days after a change has been made in its officers, file with the clerk of the State Corporation Commission a sworn statement showing such change. Every such corporation or association shall, at intervals of six months, file with the clerk of the State Corporation Commission, a sworn statement showing the names and addresses of such additional members as have been received in such corporation or association during such interval.

The violation of any provision of this section shall constitute a class 3 misdemeanor.

The provisions of §§ 18.2-420 and 18.2-421 shall not apply to fraternal organizations which are organized for charitable, benevolent, and educational objectives and whose transactions and list of members are open for public inspection.

Source: § 18.1-380.2.

§ 18.2-422. Prohibition of wearing of masks in certain places; exceptions. — It shall be unlawful for any person over sixteen years of age while wearing any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, to be or appear in any public place, or to be or appear upon any private property in this State without first having obtained from the owner or tenant thereof consent to do so in writing. Provided, however, that the provisions of this section shall not apply to persons wearing traditional holiday costumes, or to persons engaged in professions, trades, employment or other activities and wearing protective masks which are deemed necessary for the physical safety of the wearer or other persons, or to persons engaged in any bona fide theatrical production or masquerade ball. The violation of any provisions of this section shall constitute a class 6 felony.

Source: §§ 18.1-364 and 18.1-367.

§ 18.2-423. Burning cross or placing other exhibit on property with intent to intimidate. — It shall be unlawful for any person or persons, with the intent of intimidating any person or group of persons, to burn, or cause to be burned, a cross on the property of another, a highway or other public place, or with such intent to place thereon any exhibit of any kind. Any person who shall violate any provision of this section shall be guilty of a class 6 felony.

Any such burning of a cross shall be prima facie evidence of an intent to intimidate a person or group of persons.

Source: §§ 18.1-365 through 18.1-367.

Article 6.

Unlawful Use of Telephones.

§ 18.2-424. Relinquishing telephone party lines in emergencies. — Any person who fails to relinquish a telephone party line after he has been requested to do so to permit another to place an emergency call, shall be guilty of a class 4 misdemeanor; provided, that this section shall not apply to any person who is using the telephone party line for an emergency call.

Source: § 18.1-368.

§ 18.2-425. Requesting relinquishment on pretext. — Any person who requests another to relinquish a telephone party line on the pretext that he must place an emergency call, knowing such pretext to be false, shall be guilty of a class 4 misdemeanor.

Source: § 18.1-369.

§ 18.2-426. "Telephone party line" and "emergency call" defined. — As used in this article "telephone party line" means a subscribers' line circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. "Emergency call" means a call to report a fire or summon police, or for medical aid or ambulance service, in a situation where human life or property are in jeopardy and the prompt summoning of aid is essential.

Source: § 18.1-370.

§ 18.2-427. Use of profane, threatening or indecent language over telephone. — If any person shall curse, abuse anyone or use vulgar, profane, threatening or indecent language over any telephone in this State, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-238.

§ 18.2-428. Giving certain false information to another by telephone. — If any person maliciously advises or informs another over any telephone in this State of the death of, accident to, injury to, illness of, or disappearance of some third party, knowing the same to be false, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-238.1.

§ 18.2-429. Causing telephone to ring with intent to annoy. — Any person who, without intent to converse but with intent to annoy any other person, causes any telephone not his own to ring, and any person who permits or condones the use of any telephone under his control for such purpose shall be guilty of a class 3 misdemeanor.

Source: § 18.1-238.2.

§ 18.2-430. Venue for offenses under this article. — Any person violating any of the provisions of this article may be prosecuted either in the county or city from which he called or in the county or city in which the call was received.

Source: § 18.1-238.

§ 18.2-431. Duty of telephone companies; notices in directories. — (1) It shall be the duty, on pain of contempt of court, of each telephone company in this State to furnish immediately in response to a subpoena issued by a court of record such information as it, its officers and employees, may possess which, in the opinion of the court, may aid in the apprehension of persons suspected of violating the provisions of this article.

(2) Every telephone directory distributed to the public which lists the calling numbers of telephones or of any telephone exchange located in this State shall contain a notice which explains the offenses made punishable under this article, such notice to be printed in type which conforms with and is comparable to other type on the same page, and to be placed in a prominent place in such directory. Any violation of this subsection shall be punishable as a class 4 misdemeanor.

Source: §§ 18.1-238 and 18.1-371.

Article 7.

Places of Amusement and Dance Halls.

§ 18.2-432. Counties, cities and towns authorized to regulate minors in public places of amusement. — The governing body of any county, city or town may, by ordinance, regulate the frequenting, playing in or loitering in public places of amusement by minors, and may prescribe punishment for violations of such ordinances not to exceed that prescribed for a class 3 misdemeanor.

Source: § 18.1-349.1.

§ 18.2-433. Regulation of dance halls by counties, cities and towns. — A public dance hall, within the meaning of this section, shall be construed to mean any place open to the general public where dancing is permitted.

The governing body of any county, city or town may, by ordinance, regulate public dance halls in such county, city or town, and prescribe punishment for violation of such ordinance not to exceed that prescribed for a class 3 misdemeanor.

Such ordinance shall prescribe for: (1) the issuance of permits to operate public dance halls, grounds for revocation and procedure for revocation of such permits; (2) a license tax not to exceed six hundred dollars on every person operating or conducting any such dance hall; and (3) rules and regulations for the operation of such dance halls. Such ordinances may exempt from their operation dances held for benevolent or charitable purposes, or when the same are conducted under the auspices of religious, educational, civic or military organizations.

No county ordinance adopted under the provisions of this section shall be in effect in any town in which an ordinance adopted under the provisions of this section is in effect.

Source: §§ 18.1-350 through 18.1-354.

Chapter 10.

Crimes Against the Administration of Justice.

Article 1.

Perjury.

§ 18.2-434. What deemed perjury; punishment and penalty. — If any person to whom an oath is lawfully administered on any occasion wilfully swear falsely on such occasion touching any material matter or thing, or if a person falsely make oath that any other person is eighteen years of age in order to obtain a marriage license for such other person, he shall be guilty of perjury, punishable as a class 5 felony. Upon the conviction of any person for perjury, such person thereby shall be adjudged forever incapable of holding any post mentioned in § 2-26, or of serving as a juror.

Source: §§ 18.1-273 through 18.1-275.

§ 18.2-435. Giving conflicting testimony on separate occasions as to same matter; indictment; sufficiency of evidence. — It shall likewise constitute perjury for any person, with the intent to testify falsely, to knowingly give testimony under oath as to any material matter or thing and subsequently to give conflicting testimony under oath as to the same matter or thing. In any indictment for such perjury, it shall be sufficient to allege the offense by stating that the person charged therewith did, knowingly and with the intent

to testify falsely, on one occasion give testimony upon a certain matter and, on a subsequent occasion, give different testimony upon the same matter. Upon the trial on such indictment, it shall be sufficient to prove that the defendant, knowingly and with the intent to testify falsely, gave such differing testimony and that the differing testimony was given on two separate occasions.

Source: § 18.1-276.

§ 18.2-436. Inducing another to give false testimony; sufficiency of evidence. — If any person procure or induce another to commit perjury or to give false testimony under oath in violation of any provision of this article, he shall be punished as prescribed in § 18.2-434.

In any prosecution under this section, it shall be sufficient to prove that the person alleged to have given false testimony shall have been procured, induced, counselled or advised to give such testimony by the party charged.

Source: § 18.1-277, first part.

§ 18.2-437. Immunity of witnesses. — No witness called by the attorney for the Commonwealth, or by the court, and required to give evidence for the prosecution in a proceeding under this article shall ever be proceeded against for the offense concerning which he testified. Such witness shall be compelled to testify and may be punished for contempt for refusing to do so.

Source: § 18.1-277, last part.

Article 2.

Bribery and Related Offenses.

§ 18.2-438. Bribes to officers or candidates for office. — If any person corruptly give, offer or promise to any executive, legislative or judicial officer, sheriff or police officer, or to any candidate for such office, either before or after he shall have taken his seat, any gift or gratuity, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding, which is or may be then pending, or may by law come or be brought before him in his official capacity, he shall be guilty of a class 4 felony. This section shall also apply to a resident of this State who, while temporarily absent therefrom for that purpose, shall make such gift, offer or promise.

Source: § 18.1-278.

§ 18.2-439. Acceptance thereof by officer. — If any executive, legislative or judicial officer, sheriff or police officer, or any candidate for such office, accept in this State, or if, being resident in this State, such officer or candidate shall go out of this State and accept and afterwards return to and reside in this State, any gift or gratuity or any promise to make a gift or do any act beneficial to such officer or candidate under an agreement, or with an understanding, that his vote, opinion or judgment shall be given on any particular side of any question, cause or proceeding which is or may be by law brought before him in his official capacity or that in such capacity he shall make any particular nomination or appointment or take or fail to take any particular action or perform any duty required by law, he shall be guilty of a class 4 felony and shall forfeit his office and be forever incapable of holding any post mentioned in § 2-26. The word candidate as used in this and § 18.2-438, shall mean anyone who has filed his candidacy with the appropriate electoral official or who is a candidate as defined in subparagraph (2) of § 24.1-1 of this Code.

Source: § 18.1-279.

§ 18.2-440. Bribes to officers to prevent service of process. — If any

officer authorized to serve legal process receive any money or other thing of value for omitting or delaying to perform any duty pertaining to his office, he shall be guilty of a class 2 misdemeanor.

Source: § 18.1-281.

§ 18.2-441. Giving bribes to, or receiving same by, commissioners, jurors, etc. — If any person give, offer or promise to give any money or other thing of value to a commissioner appointed by a court, auditor, arbitrator, umpire or juror (although not impaneled), with intent to bias his opinion or influence his decision in relation to any matter in which he is acting or is to act, or if any such commissioner, auditor, arbitrator, umpire or juror corruptly take or receive such money or other thing, he shall be guilty of a class 4 felony.

Source: § 18.1-282.

§ 18.2-442. Bribery of participants in games, contests or sports. — Whoever gives, promises or offers any valuable thing to any professional or amateur participant or prospective participant in any game, contest or sport, with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in any professional or amateur game, contest or sport in which such participant is taking part or expects to take part, or has any duty or connection therewith, shall be guilty of a class 5 felony.

Source: § 18.1-402.

§ 18.2-443. Solicitation or acceptance of bribes by participants or by managers, coaches or trainers. — A professional or amateur participant or prospective participant in any game, contest or sport or a manager, coach or trainer of any team or individual participant or prospective participant in any such game, contest or sport, who solicits or accepts any valuable thing to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in any game, contest or sport in which he is taking part, or expects to take part, or has any duty or connection therewith, shall be guilty of a class 5 felony.

Source: § 18.1-403.

§ 18.2-444. Corruptly influencing, or being influenced as, agents, etc. — (1) Any person who gives, offers or promises to an agent, employee or servant any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his action to the prejudice of his principal's, employer's or master's business; or

(2) An agent, employee or servant who, without the knowledge and consent of his principal, employer or master requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner as to his principal's, employer's or master's business; or

(3) An agent, employee or servant who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master or to employ service or labor for his principal, employer or master receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; or

(4) Any person who gives or offers such an agent, employee or servant such commission, discount or bonus;

Shall be guilty of a class 3 misdemeanor.

Source: § 18.1-404.

§ 18.2-445. Immunity of witnesses. — No witness called by the court or attorney for the Commonwealth and giving evidence for the prosecution, either before the grand jury or the court in any prosecution, under this article shall ever be proceeded against for any offense of giving, or offering to give, or accepting a bribe committed by him at the time and place indicated in such prosecution; but such witness shall be compelled to testify, and for refusing to answer questions may, by the court, be punished for contempt.

Source: §§ 18.1-280 and 18.1-405.

Article 3.

Bribery of Public Servants and Party Officials.

§ 18.2-446. Definitions. — The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section except where the context clearly requires a different meaning:

(1) "Benefits" means a gain or advantage, or anything regarded by the beneficiary as a gain or advantage, including a benefit to any other person or entity in whose welfare he is interested, but shall not mean an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose;

(2) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility;

(3) "Pecuniary benefit" means a benefit in the form of money, property, commercial interest or anything else the primary significance of which is economic gain;

(4) "Public servant" means any officer or employee of this State or any political subdivision thereof, including members of the General Assembly and judges, and any person participating as a juror, advisor, consultant or otherwise, in performing any governmental function; but the term does not include witnesses;

(5) "Administrative proceeding" means any proceeding other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law including specifically, but not limited to, proceedings before a planning commission and board of zoning appeals.

Source: § 18.1-282.1.

§ 18.2-447. When person guilty of bribery. — A person shall be guilty of bribery under the provisions of this article:

(1) If he offers, confers or agrees to confer upon another (a) any pecuniary benefit as consideration for or to obtain or influence the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or party official, or (b) any benefit as consideration for or to obtain or influence either the recipient's decision, opinion, recommendation, vote or other exercise of official discretion in a judicial or administrative proceeding or the recipient's violation of a known legal duty as a public servant or party official; or

(2) If he accepts or agrees to accept from another (a) any pecuniary benefit offered, conferred or agreed to be conferred as consideration for or to obtain or influence the recipient's decision, opinion, recommendation, vote or other

exercise of discretion as a public servant or party official, or (b) any benefit offered, conferred or agreed to be conferred as consideration for or to obtain or influence either the recipient's decision, opinion, recommendation, vote or other exercise of official discretion in a judicial or administrative proceeding or the recipient's violation of a known legal duty as a public servant or party official; or

(3) If he solicits from another (a) any pecuniary benefit or promise of pecuniary benefit as consideration for or in exchange for his decision, opinion, recommendation, vote or other exercise of discretion as a public servant or party official, or (b) any benefit or promise of benefit as consideration for or in exchange for his decision, opinion, recommendation, vote or other exercise of official discretion in a judicial or administrative proceeding or his violation of a known legal duty as a public servant or party official.

Source: § 18.1-282.2.

Note: § 18.1-282.2 is in an article which deals primarily with bribery of public servants and party officials. That section also contains reference to bribery of voters, but this offense is adequately covered in §§ 24.1-271 and 24.1-272 of the election laws, which makes the offense a misdemeanor, whereas § 18.2-449 makes the offense of bribery under this article a felony. Section 18.2-447 omits reference to voters.

§ 18.2-448. Certain matters not to constitute defenses. — It shall be no defense to any prosecution under § 18.2-447 that a person whom the actor sought to influence was not qualified to act in the desired way, whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason. Also it shall be no defense to a prosecution under § 18.2-447 that a resident of this State charged with committing an act of bribery was temporarily absent from this State at the time such act was committed.

Source: § 18.1-282.3.

§ 18.2-449. Punishment. — Any person found guilty of bribery under the provisions of this article shall be guilty of a class 4 felony, and if such person be a public servant he shall in addition forfeit his public office and shall be forever incapable of holding any public office in this State.

Source: § 18.1-282.4.

§ 18.2-450. Immunity of witnesses. — No witness called by the court or attorney for the Commonwealth and giving evidence for the prosecution, either before the grand jury or the court in any prosecution under this article shall ever be proceeded against for any offense of giving, or offering to give, or accepting a bribe committed by him at the time and place indicated in such prosecution; but such witness shall be compelled to testify, and for refusing to answer questions, may by the court, be punished for contempt.

Source: § 18.1-282.3, last sentence.

Article 4.

Barratry.

§ 18.2-451. Definitions; application and construction of article. — (a) "Barratry" is the offense of stirring up litigation.

(b) A "barrator" is an individual, partnership, association or corporation who or which stirs up litigation.

(c) "Stirring up litigation" means instigating or attempting to instigate a person or persons to institute a suit at law or equity.

(d) "Instigating" means bringing it about that all or part of the expenses of the litigation are paid by the barrator or by a person or persons (other than the plaintiffs) acting in concert with the barrator, unless the instigation is justified.

(e) "Justified" means that the instigator is related by blood or marriage to the plaintiff whom he instigates, or that the instigator is entitled by law to share with the plaintiff in money or property that is the subject of the litigation or that the instigator has a direct interest in the subject matter of the litigation or occupies a position of trust in relation to the plaintiff; or that the instigator is acting on behalf of a duly constituted legal aid society approved by the Virginia State Bar which offers advice or assistance in all kinds of legal matters to all members of the public who come to it for advice or assistance and are unable because of poverty to pay legal fees.

(f) "Direct interest" means a personal right or a pecuniary right or liability.

This article shall not be applicable to attorneys who are parties to contingent fee contracts with their clients where the attorney does not protect the client from payment of the costs and expense of litigation, nor shall this article apply to any matter involving annexation, zoning, bond issues, or the holding or results of any election or referendum, nor shall this article apply to suits pertaining to or affecting possession of or title to real or personal property, regardless of ownership, nor shall this article apply to suits involving the legality of assessment or collection of taxes or the rates thereof, nor shall this article apply to suits involving rates or charges or services by common carriers or public utilities, nor shall this article apply to criminal prosecutions, nor to the payment of attorneys by legal aid societies approved by the Virginia State Bar, nor to proceedings to abate nuisances. Nothing herein shall be construed to be in derogation of the constitutional rights of real parties in interest to employ counsel or to prosecute any available legal remedy under the laws of this State.

Source: § 18.1-388.

§ 18.2-452. Barratry unlawful. — Any person, if an individual, who shall engage in barratry shall be guilty of a class 1 misdemeanor; and if a corporation, may be fined not more than ten thousand dollars. If the corporation be a foreign corporation, its certificate of authority to transact business in Virginia shall be revoked by the State Corporation Commission.

Source: §§ 18.1-389 and 18.1-390.

§ 18.2-453. Aiders and abettors. — A person who aids and abets a barrator by giving money or rendering services to or for the use or benefit of the barrator for committing barratry shall be guilty of barratry and punished as provided in § 18.2-452.

Source: § 18.1-391.

§ 18.2-454. Enjoining barratry. — Suits to enjoin barratry may be brought by the Attorney General or the attorney for the Commonwealth in the appropriate circuit court.

Source: § 18.1-392.

§ 18.2-455. Unprofessional conduct; revocation of license. — Conduct that is made illegal by this article on the part of an attorney at law or any person holding license from the State to engage in a profession is unprofessional conduct. Upon hearing pursuant to the provisions of § 54-74 of the Code, or other statute applicable to the profession concerned, if the defendant be found

guilty of barratry, his license to practice law or any other profession shall be revoked for such period as provided by law.

Source: § 18.1-393.

Article 5.

Contempt of Court.

§ 18.2-456. Cases in which courts and judges may punish summarily for contempt. — The courts and judges may issue attachments for contempt, and punish them summarily, only in the cases following:

(1) Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice;

(2) Violence, or threats of violence, to a judge or officer of the court, or to a juror, witness or party going to, attending or returning from the court, for or in respect of any act or proceeding had or to be had in such court;

(3) Vile, contemptuous or insulting language addressed to or published of a judge for or in respect of any act or proceeding had, or to be had, in such court, or like language used in his presence and intended for his hearing for or in respect of such act or proceeding;

(4) Misbehavior of an officer of the court in his official character;

(5) Disobedience or resistance of an officer of the court, juror, witness or other person to any lawful process, judgment, decree or order of the court.

Source: § 18.1-292.

§ 18.2-457. Fine and imprisonment by court limited unless jury impaneled. — No court shall, without a jury, for any such contempt as is mentioned in the first class embraced in § 18.2-456, impose a fine exceeding fifty dollars or imprison more than ten days; but in any such case the court may, without an indictment, information or any formal pleading, impanel a jury to ascertain the fine or imprisonment proper to be inflicted and may give judgment according to the verdict.

Source: § 18.1-295.

§ 18.2-458. Power of judge of district court to punish for contempt. — A judge of a district court shall have the same power and jurisdiction as a judge of a circuit court to punish summarily for contempt, but in no case shall the fine exceed fifty dollars, or the imprisonment exceed ten days, for the same contempt.

Source: § 18.1-293.

§ 18.2-459. Appeal from sentence of such judge. — Any person sentenced to pay a fine, or to confinement, under the preceding section, may appeal therefrom to the circuit court of the county or city in which the sentence was pronounced, upon entering into recognizance before the sentencing judge, with surety and in penalty deemed sufficient, to appear before such circuit court to answer for the offense. If such appeal be taken, a certificate of the conviction and the particular circumstances of the offense, together with the recognizance, shall forthwith be transmitted by the sentencing judge to the clerk of such circuit court, who shall immediately deliver the same to the judge thereof. Such judge may hear the case upon the certificate and any legal testimony adduced on either side, and make such order therein as may seem to him proper.

Source: § 18.1-294.

Article 6.

Interference with Administration of Justice.

§ 18.2-460. Obstructing justice by threats or force. — If any person, by threats, or force, attempt to intimidate or impede a judge, justice, juror, witness, or an officer of a court, or any law-enforcement officer, in the discharge of his duty, or to obstruct or impede the administration of justice in any court, he shall be deemed to be guilty of a class 1 misdemeanor.

Source: § 18.1-310.

§ 18.2-461. Giving false reports to police officers. — It shall be unlawful for any person knowingly to give a false report as to the commission of any crime to any law-enforcement official with intent to mislead. Violation of the provisions of this section shall be punishable as a class 1 misdemeanor.

Source: § 18.1-401.

§ 18.2-462. Concealing or compounding offenses. — If any person knowing of the commission of an offense take any money or reward, or an engagement therefor, upon an agreement or understanding, expressed or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, he shall, if such offense be a felony, be guilty of a class 2 misdemeanor; and if such offense be not a felony, unless it be punishable merely by forfeiture to him, he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-303.

§ 18.2-463. Refusal to aid officer in execution of his office. — If any person on being required by any sheriff or other officer refuse or neglect to assist him: (1) in the execution of his office in a criminal case, (2) in the preservation of the peace, (3) in the apprehending or securing of any person for a breach of the peace, or (4) in any case of escape or rescue, he shall be guilty of a class 2 misdemeanor.

Source: § 18.1-301.

§ 18.2-464. Failure to obey order of conservator of the peace. — If any person, being required by a conservator of the peace on view of a breach of the peace or other offense to bring before him the offender, refuse or neglect to obey the conservator of the peace, he shall be guilty of a class 2 misdemeanor; and if the conservator of the peace declare himself or be known to be such to the person so refusing or neglecting, ignorance of his office shall not be pleaded as an excuse.

Source: § 18.1-302.

§ 18.2-465. Officer summoning juror to act partially. — If any sheriff or other officer corruptly, or through favor or ill-will, summon a juror, with intent that such juror shall find a verdict for or against either party, he shall be guilty of a class 3 misdemeanor, and forfeit his office; and he shall be forever incapable of holding any post mentioned in § 2-26.

Source: § 18.1-296.

§ 18.2-466. Corruptly procuring juror to be summoned. — If any person procure or attempt to procure a juror to be summoned, with intent that such juror shall find a verdict for or against either party, he shall be guilty of a class 3 misdemeanor.

Source: § 18.1-297.

§ 18.2-467. Fraud in drawing jurors, etc. — If any person be guilty of any fraud, either by tampering with the jury box prior to a draft, or in drawing a

juror, or in returning into the jury box the name of any person which has lawfully been drawn out and drawing and substituting another in his stead, or in any other way in drawing of jurors, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-298.

§ 18.2-468. Making sound recordings of jury deliberations. — If any person shall install or cause to be installed or use or cause to be used any microphone or device designed for recording or transmitting for recording sound in any jury room in this State for the purpose of recording the deliberations of any jury or for the purpose of preparing a summary of such deliberations, he shall be guilty of a class 6 felony.

Source: § 18.1-299.

§ 18.2-469. Officer refusing, delaying, etc., to execute process for criminal. — If any officer wilfully and corruptly refuse to execute any lawful process requiring him to apprehend or confine a person convicted of, or charged with, an offense, or wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, such officer shall be guilty of a class 3 misdemeanor.

Source: § 18.1-300.

§ 18.2-470. Extortion by officer. — If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand and receive a greater fee or compensation than is so allowed or provided, he shall be guilty of a class 4 misdemeanor.

Source: § 18.1-304.

§ 18.2-471. Fraudulent issue of fee bills. — If any person authorized by law to charge fees for services performed by him and issue bills therefor fraudulently issue a fee bill for a service not performed by him, or for more than he is entitled to, he shall be guilty of a class 3 misdemeanor and shall forfeit his office and be forever incapable of holding any post mentioned in § 2-26.

Source: §§ 18.1-305 and 18.1-307.

§ 18.2-472. False entries or destruction of records by officers. — If a clerk of any court or other public officer fraudulently make a false entry, or erase, alter, secrete or destroy any record in his keeping and belonging to his office, he shall be guilty of a class 1 misdemeanor and shall forfeit his office and be forever incapable of holding any post mentioned in § 2-26.

Source: §§ 18.1-306 and 18.1-307.

Article 7.

Escape of Prisoners.

§ 18.2-473. Persons aiding escape of prisoner. — When a person is lawfully detained as a prisoner in any jail, prison or custody, if any person: (1) convey anything into the jail or prison with intent to facilitate the prisoner's escape therefrom, (2) in any way aid such prisoner to escape, or in an attempt to escape, from such jail, prison or custody, or (3) forcibly rescue, or attempt to rescue him therefrom, such person, if the rescue or escape be effected, shall, if the prisoner was detained on conviction or charge of felony, be confined in the penitentiary not less than one nor more than five years; and if the same be not effected, or if the prisoner was not detained on such conviction or charge, he shall be guilty of a class 2 misdemeanor.

Source: § 18.1-284.

§ 18.2-474. Delivery of articles to prisoners. — No person shall wilfully in any manner deliver, or attempt to deliver, to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, any article of any nature whatsoever, without first securing the permission of the person in whose charge such prisoner is, and who may in his discretion grant or refuse permission. Any person violating this section shall be guilty of a class 1 misdemeanor.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

Source: § 18.1-285.

§ 18.2-475. Officers voluntarily suffering prisoner to escape. — If any sheriff, jailer or other officer, or any guard or other person summoned or employed by any such sheriff, jailer or other officer, voluntarily suffer a prisoner convicted of or charged with felony to escape from his custody, he shall be guilty of a class 4 felony.

Source: § 18.1-286.

§ 18.2-476. Officers negligently suffering prisoner to escape or refusing to receive prisoner. — If any sheriff, jailer or other officer, or any guard or other person summoned or employed by such sheriff, jailer or other officer, negligently suffer a prisoner convicted of or charged with felony, or voluntarily or negligently suffer a prisoner convicted of or charged with an offense not a felony, to escape from his custody, or wilfully refuse to receive into his custody a person lawfully committed thereto, he shall be guilty of a class 2 misdemeanor.

Source: § 18.1-287.

§ 18.2-477. Prisoner escaping from jail; how punished. — If any person confined in jail or in custody after conviction of a criminal offense shall escape by force or violence, other than by setting fire thereto, he shall be confined in the penitentiary not less than one year nor more than five years if previously sentenced to confinement therein, or be confined in jail not more than twelve months if previously sentenced to confinement in jail. The term of confinement under this section shall commence from the expiration of the former sentence.

Source: § 18.1-288.

§ 18.2-478. Escape from jail or custody by force or violence without setting fire to jail. — If any person lawfully imprisoned in jail and not tried or sentenced on a criminal offense escape from jail by force or violence, other than by setting fire thereto or if any person lawfully in the custody of any police officer on a charge of criminal offense escape from such custody by force or violence, he shall be confined in jail not exceeding twelve months.

Source: § 18.1-289.

§ 18.2-479. Escape without force or violence or setting fire to jail. — If any person lawfully confined in jail or lawfully in the custody of any court or officer thereof or of any law enforcement officer on a charge or conviction of a criminal offense escape, otherwise than by force or violence or by setting fire to the jail, he shall be guilty of a class 2 misdemeanor.

Source: § 18.1-290.

§ 18.2-480. Escape, etc., by setting fire to jail. — If any person lawfully imprisoned in jail escape, or attempt to escape therefrom, by setting fire thereto, he shall be guilty of a class 4 felony.

Source: § 18.1-291.

Chapter 11.

Offenses Against the Sovereignty of the State.

Article 1.

Treason and Related Offenses.

§ 18.2-481. Treason defined; how proved and punished. — Treason shall consist only in:

(1) Levying war against the State;

(2) Adhering to its enemies, giving them aid and comfort;

(3) Establishing, without authority of the legislature, any government within its limits separate from the existing government;

(4) Holding or executing, in such usurped government, any office, or professing allegiance or fidelity to it, or

(5) Resisting the execution of the laws under color of its authority.

Such treason, if proved by the testimony of two witnesses to the same overt act, or by confession in court, shall be punishable as a class 1 felony.

Source: § 18.1-418.

§ 18.2-482. Misprision of treason. — If any person knowing of such treason shall not, as soon as may be, give information thereof to the Governor, or some conservator of the peace, he shall be guilty of a class 6 felony.

Source: § 18.1-419.

§ 18.2-483. Attempting, or instigating others, to establish usurped government. — If any person attempt to establish any such usurped government and commit any overt act therefor or by writing or speaking endeavor to instigate others to establish such government, he shall be guilty of a class 1 misdemeanor.

Source: § 18.1-420.

§ 18.2-484. Advocacy of change in government by force, violence or other unlawful means. — It shall be unlawful for any person, group, or organization to advocate any change, by force, violence, or other unlawful means in the government of the Commonwealth of Virginia or any of its subdivisions or in the government of the United States of America.

It shall be unlawful for any person to join, assist or otherwise contribute to any group or organization which, to the knowledge of such person, advocates or has as its purpose, aim or objective, any change, by force, violence, or other unlawful means in the government of the Commonwealth of Virginia or any of its subdivisions or in the government of the United States of America.

Violation of this section shall be punishable as a class 6 felony.

Nothing herein shall be construed to limit or prohibit the advocacy, orally or otherwise, of any change, by peaceful means, in the government of the Commonwealth or any of its subdivisions or in the government of the United States.

Source: § 18.1-421.

§ 18.2-485. Conspiring to incite one race to insurrection against another race. — If any person conspire with another to incite the population of one race to acts of violence and war against the population of another race, he shall,

whether such acts of violence and war be made or not, be guilty of a class 4 felony.

Source: § 18.1-422.

Article 2.

Uniform Flag Act.

§ 18.2-486. Definition of flag, standard, etc. — The words flag, standard, color, ensign or shield, as used in this article, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States, or of this State, or a copy, picture or representation thereof.

Source: § 18.1-423.

§ 18.2-487. Exhibition or display. — No person shall, in any manner, for exhibition or display:

(1) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this State, or authorized by any law of the United States or of this State;

(2) Expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed, any such word, figure, mark, picture, design, drawing or advertisement; or

(3) Expose to public view for sale, manufacture or otherwise, or sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

Source: § 18.1-424.

§ 18.2-488. Mutilating, defacing, etc. — No person shall publicly burn with contempt, mutilate, deface, defile, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield.

Source: § 18.1-425.

§ 18.2-489. To what article applies. — This article shall not apply to any act permitted by the statutes of the United States or by the laws of this State, or by the United States armed forces regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted such flag, standard, color, ensign or shield, with no design or words thereon and disconnected with any advertisement.

Source: § 18.1-426.

§ 18.2-490. Penalty. — Any violation of this article shall be punishable as a class 1 misdemeanor.

Source: § 18.1-427.

§ 18.2-491. Construction. — This article shall be so construed as to effectuate its general purpose, and to make uniform the laws of the states which enact it.

Source: § 18.1-428.

§ 18.2-492. Short title. — This article may be cited as the Uniform Flag Act.

Source: § 18.1-429.

Chapter 12.

Miscellaneous.

Article 1.

Liquefied Petroleum Gas Containers.

§ 18.2-493. Definitions. — As used in this article, unless the text indicates otherwise:

(a) "Person" shall mean any person, firm or corporation.

(b) "Owner" shall mean any person who holds a written bill of sale under which title or ownership to a container was transferred to such person, or any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale.

(c) "Liquefied petroleum gas" shall mean any material which is composed predominately of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and isobutane) and butylenes.

Source: § 18.1-400.1.

§ 18.2-494. Unlawful use, filling or refilling or trafficking in containers. — No person except the owner thereof or person authorized in writing by the owner shall fill or refill with liquefied petroleum gas, or any other gas or compound, a liquefied petroleum gas container; or buy, sell, offer for sale, give, take, loan, deliver or permit to be delivered, or otherwise use, dispose of, or traffic in a liquefied petroleum gas container or containers if the container bears upon the surface thereof in plainly legible characters the name, initials, mark or other device of the owner; nor shall any person other than the owner of a liquefied petroleum gas container or a person authorized in writing by the owner deface, erase, obliterate, cover up, or otherwise remove or conceal any name, mark, initial or device thereon.

Source: § 18.1-400.2.

§ 18.2-495. Presumptive evidence. — The use of a liquefied petroleum gas container or containers by any person other than the person whose name, mark, initial or device is on the liquefied petroleum gas container or containers, without written consent, or purchase of the marked and distinguished liquefied petroleum gas container for the sale of liquefied petroleum gas or filling or refilling with liquefied petroleum gas, or possession of the liquefied petroleum gas containers by any person other than the person having his name, mark, initial or other device thereon, without the written consent of such owner, is presumptive evidence of the unlawful use, filling or refilling, or trafficking in of such liquefied petroleum gas containers.

Source: § 18.1-400.3.

§ 18.2-496. Punishment for violation. — Any person who fails to comply with any of the foregoing provisions of this article is guilty of a class 3 misdemeanor for each separate offense.

Source: § 18.1-400.4.

§ 18.2-497. Fines and costs. — The costs incurred in the enforcement of this article shall be assessed and collected in the same manner as in criminal

cases, and all fines collected by virtue of this article shall be turned over in the same manner and for the same purposes as criminal and misdemeanor fines are disposed of by law.

Source: § 18.1-400.5.

§ 18.2-498. Exempt containers. — Nothing in this article applies to or shall be construed to affect a liquefied petroleum gas container having a total capacity of five gallons or less.

Source: § 18.1-400.6.

Article 2.

Conspiracy to Injure Another in Trade, Business or Profession.

§ 18.2-499. Combinations to injure others in their reputation, trade, business or profession; rights of employees. — (a) Any two or more persons who shall combine, associate, agree, mutually undertake or concert together for the purpose of wilfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever, or for the purpose of wilfully and maliciously compelling another to do or perform any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a class 3 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

(b) Any person who attempts to procure the participation, cooperation, agreement or other assistance of any one or more persons to enter into any combination, association, agreement, mutual understanding or concert prohibited in subsection (a) of this section shall be guilty of a violation of this section and subject to the same penalties set out in subsection (a) hereof.

(c) This section shall not affect the right of employees lawfully to organize and bargain concerning wages and conditions of employment, and take other steps to protect their rights as provided under State and federal laws.

Source: § 18.1-74.1:1.

§ 18.2-500. Same; civil relief; damages and counsel fees; injunctions. — (a) Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel; and without limiting the generality of the term, "damages" shall include loss of profits. Such counsel shall in no case receive any other, further or additional compensation except that allowed by the court and any contract to the contrary shall be null and void.

(b) Whenever a person shall duly file a bill in chancery in the circuit court of any county or city against any person alleging violations of the provisions of § 18.2-499 and praying that such party defendant be restrained and enjoined from continuing the acts complained of, such court shall have jurisdiction to hear and determine the issues involved, to issue injunctions pendente lite and permanent injunctions and to decree damages and costs of suit, including reasonable counsel fees to complainants' and defendants' counsel.

Source: § 18.1-74.1:2.

§ 18.2-501. Same; protection of persons testifying or producing evidence. — (a) No natural person shall be prosecuted or be subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, in any action, suit, or prosecution authorized by this article; provided, that no person

so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

(b) As used in this article a "person" is any person, firm, corporation, partnership or association.

Source: § 18.1-74.1:3.

Article 3.

Miscellaneous Offenses in General.

§ 18.2-502. Medical referral for profit. — (a) No person, firm, partnership, association or corporation, or agent or employee thereof, shall for profit engage in any business which in whole or in part includes the referral or recommendation of persons to a physician, hospital, health related facility, or dispensary for any form of medical care or treatment of any ailment or physical condition. The acceptance of a fee or charge for any such referral or recommendation shall create a presumption that the business is engaged in such service for profit. A violation of the provisions of this section shall be punishable as a class 1 misdemeanor.

(b) Whenever there shall be a violation of this section, in addition to the criminal sanctions, an application may be made by the Attorney General to the circuit court of the city or county in which the offense occurred, to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or judge that the defendant has, in fact, violated this section, an injunction may be issued by such court or judge enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. Provided, however, that nothing in this section shall be construed to limit, prohibit, forbid or prevent any licensed physician or practitioner of the healing arts in the ordinary course of his professional practice from making referrals or recommendations to other members of such groups, so long as no fee is received for such referral or recommendation.

And provided, further, that the criminal and civil provisions of this section shall not apply to any individual association or corporation not organized or incorporated for pecuniary profit or financial gain, or to any organization or association which is exempt from taxation pursuant to section 501(c) of Title 26 of the United States Code (Int. Rev. Code of 1954).

Source: § 18.1-417.2.

§ 18.2-503. Possession or duplication of certain keys. — (a) No person shall knowingly possess any key to the lock of any building or other property owned by the Commonwealth of Virginia, or a department, division or agency thereof, without receiving permission from a person duly authorized to give such permission to possess such key.

(b) No person, without receiving permission from a person duly authorized to give such permission shall knowingly duplicate, copy or make a facsimile of any key to a lock of a building or other property owned by the Commonwealth of Virginia, or a department, division or agency thereof.

Violation of this section shall constitute a class 3 misdemeanor.

Source: § 18.1-408.1.

§ 18.2-504. Destroying or concealing wills. — If any person fraudulently

destroy or conceal any will or codicil, with intent to prevent the probate thereof, he shall be guilty of a class 6 felony.

Source: § 18.1-309.

3. That this act is in force on and after October one, nineteen hundred seventy-four.