CHAPTER 12.1-31
MISCELLANEOUS OFFENSES

12.1-31-01. Disorderly conduct.

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:
   a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
   b. Makes unreasonable noise;
   c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
   d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
   e. Persistently follows a person in or about a public place or places;
   f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
   g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose;
   h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or
   i. Uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property; or uses a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person's dwelling or accessory structure before there is an offense.
2. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

12.1-31-01.1. Disorderly conduct at a funeral - Penalty.

1. For purposes of this section:
   a. "Funeral" means the ceremonies, rituals, processions, and memorial services held at a funeral site in connection with the burial, cremation, or memorial of a deceased individual.
   b. "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next hour or has been conducted within the last hour.
2. An individual is guilty of disorderly conduct at a funeral if the individual:
   a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within one thousand feet [300.48 meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or
   b. Displays, with knowledge of the existence of a funeral site and within one thousand feet [300.48 meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual.
3. Disorderly conduct at a funeral is a class B misdemeanor. A second or subsequent violation of this section is a class A misdemeanor.

12.1-31-01.2. Sexual assault restraining order - Penalty.
Repealed by S.L. 2025, ch. 145, § 17.

12.1-31-02. Engaging in or financing criminal usury business.

1. A person is guilty of a class C felony if he knowingly engages in, or directly or indirectly provides financing for, the business of making extensions of credit at such a rate of interest that repayment or performance of any promise given in consideration thereof is unenforceable through civil judicial process in this state.
2. Knowledge of unenforceability shall be presumed, in the case of a person engaging in the business, if any of the following exist, and in the case of a person directly or indirectly providing financing, if he knew any of the following:
   a. It is an offense to charge, take, or receive interest at the rate involved.
   b. The rate of interest charged, taken, or received is fifty or more per centum greater than the maximum enforceable rate of interest.
   c. The rate of interest involved exceeds forty-five per centum per annum or the equivalent rate for a longer or shorter period.
3. Unless otherwise provided by law, the rate of interest is to be calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.
4. It is a defense to a prosecution under this section that the defendant was licensed or otherwise authorized by the United States or by any state government to engage in the business of making extensions of credit.
5. In this section:
   a. An "extension of credit" means any loan, or any agreement, tacit or express, whereby the repayments or satisfaction of any debt, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred.
   b. "Debtor" means any person to whom an extension of credit is made, or who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.
   c. The repayment of any extension of credit includes the repayment, satisfaction, or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

12.1-31-03. Sale of tobacco, electronic smoking devices, alternative nicotine products, or kratom to an individual under twenty-one years of age and use by an individual under twenty-one years of age prohibited.

1. a. It is an infraction for any person to sell or furnish to an individual under twenty-one years of age, or procure for an individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, alternative nicotine products, or kratom. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.
   b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, alternative nicotine products, or kratom through a self-service display. This subdivision does not apply to a:
      (1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or
      (2) Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for an individual eighteen years of age or older but under twenty-one years of age, and an infraction for an individual fourteen years of age or older but under eighteen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, alternative nicotine products, or

kratom. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, alternative nicotine products, or kratom as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, alternative nicotine products, or kratom retailers also may conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. Subsections 1 and 2 do not apply to an individual under twenty-one years of age who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be used for smoking or chewing, electronic smoking devices, alternative nicotine products, or kratom when required in the performance of the individual's duties as an employee.
4. It is a noncriminal offense for an individual under twenty-one years of age to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually that individual's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, alternative nicotine products, or kratom.
5. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to individuals under twenty-one years of age and use of tobacco, electronic smoking devices, alternative nicotine products, or kratom by individuals under twenty-one years of age which includes prohibitions in addition to those in subsection 1, 2, or 4. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 4 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for an individual fourteen years of age or older who has been charged with an offense under subsection 2 or 4. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except an individual under twenty-one years of age may not be imprisoned for the contempt.
6. An individual fourteen years of age or older but under eighteen years of age found to have violated subsection 2 or 4 has committed an infraction and must be sent to juvenile court. An individual eighteen years of age or older but under twenty-one years of age found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.
    a. Any individual who has been cited for a violation of subsection 2 or 4 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
    b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
    c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.

7. The prosecution must prove the commission of a cited violation under subsection 2 or 4 by a preponderance of the evidence.
8. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
9. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
10. As used in this section:
    a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States food and drug administration under chapter V of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 501 et seq.].
    b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
    c. "Kratom" has the same meaning as in section 51-38-01.
    d. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
    e. "Tobacco specialty store" means a retail store that:
        (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and
        (2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.
    f. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

12.1-31-03.1. Vending machines prohibited - Penalty.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.
2. Subsection 1 does not apply to:
    a. A vending machine that is located in an area in which individuals under twenty-one years of age are not permitted access; or
    b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation

of a device that requires a salesperson to control the dispensation of such product.

3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
4. As used in this section, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

12.1-31-03.2. Child-resistant packaging for liquid nicotine containers. (Contingent expiration date - See note)

1. Any nicotine liquid container that is sold at retail in this state must satisfy the child-resistant effectiveness standards set forth in title 16, CFR, part 1700, section 15(b)(1), when tested in accordance with the method described in title 16, CFR, part 1700, section 20.
2. As used in this section, "nicotine liquid container" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold, marketed, or intended for use in an electronic smoking device. The term does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in an electronic smoking device, provided that the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.
3. Any person that engages in retail sales of liquid nicotine containers in violation of this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred.

12.1-31-03.3. Sale of flavored e-liquid to minors prohibited - Penalty.

1. A person may not sell, offer for sale, or distribute in this state any flavored e-liquid or electronic smoking device containing flavored e-liquid to an individual under twenty-one years of age.
2. A person that violates subsection 1 and is not a manufacturer is subject to a fine of five hundred dollars for each individual package of flavored e-liquid product or electronic smoking device containing flavored e-liquid sold or offered for sale.

12.1-31-04. Manufacture, sale, or delivery of paraphernalia - Definitions - Penalty.

Repealed by S.L. 1981, ch. 160, § 8.

12.1-31-05. Child procurement - Penalty.

Except with respect to fees and charges authorized by law or approved by a court in a proceeding related to the placement of a minor child for adoption or related to the adoption of a minor child, a person is guilty of child procurement, a class C felony, if the person knowingly offers, gives, or agrees to give to another or solicits, accepts, or agrees to accept from another, a thing of value as consideration for the recipient's furnishing or aiding another to furnish a minor child for the purposes of adoption. This section does not apply to parties to any agreement in which a woman agrees to become a surrogate, as defined in section 14-18-01, or to relinquish her rights and duties as parent of a child conceived through assisted reproduction, as defined in section 14-20-02.

12.1-31-06. Volatile chemicals - Inhalation of vapors prohibited - Definitions - Penalty.

Repealed by S.L. 2001, ch. 214, § 10.

12.1-31-07. Endangering an eligible adult - Penalty.

1. In this chapter, unless the context otherwise requires:

a. "Caregiver" means a person who is responsible for the care of an eligible adult as a result of a familial or legal relationship, or a person who has assumed responsibility for the care of an eligible adult. The term does not include a licensed health care provider who is acting within the provider's legal scope of practice in providing appropriate care or assistance to an eligible adult who is the patient or client of the licensed health care provider.
b. "Eligible adult" means an individual who is at least sixty-five years old or a vulnerable adult as defined in section 50-25.2-01.
c. "Undue influence" means the use of a position of trust and confidence with an eligible adult to exploit or take advantage of that eligible adult through actions or tactics, including emotional, psychological, or legal manipulation.

2. Except as provided for by chapters 23-06.5 and 30.1-30, a caregiver who knowingly performs an act that causes an eligible adult's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate, or a caregiver who fails to perform acts that the caregiver knows are necessary to maintain or preserve the life or health of the eligible adult and the failure causes the eligible adult's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate, is guilty of a class B felony.

12.1-31-07.1. Exploitation of an eligible adult - Penalty.

1. A person is guilty of exploitation of an eligible adult if:
   a. The person stands in a position of trust and confidence or has a business relationship with the eligible adult and knowingly, by deception, intimidation, or undue influence, obtains or uses, or attempts to obtain or use, the eligible adult's funds, assets, or property with the intent to temporarily or permanently deprive the eligible adult of the use, benefit, or possession of the property, for the benefit of someone other than the eligible adult; or
   b. The person knows the eligible adult lacks the capacity to consent, and obtains or uses, or attempts to obtain or use, or assists another in obtaining or using or attempting to obtain or use, the eligible adult's funds, assets, or property with the intent to temporarily or permanently deprive the eligible adult of the use, benefit, or possession of the property for the benefit of someone other than the eligible adult.
2. Exploitation of an eligible adult is:
   a. A class A felony if the value of the exploited funds, assets, or property exceeds fifty thousand dollars.
   b. A class B felony if the value of the exploited funds, assets, or property exceeds ten thousand dollars but does not exceed fifty thousand dollars.
   c. A class C felony if the value of the exploited funds, assets, or property is in excess of one thousand dollars but does not exceed ten thousand dollars.
   d. A class A misdemeanor if the value of the exploited funds, assets, or property does not exceed one thousand dollars.
3. It is not a defense to a prosecution of a violation of this section that the accused did not know the age of the victim.
4. This section does not impose criminal liability on a person who has:
   a. Managed the eligible adult's funds, assets, or property in a manner that clearly gives primacy to the needs and welfare of that person or is consistent with any explicit written authorization; or
   b. Made a good-faith effort to assist in the management of the eligible adult's funds, assets, or property.

12.1-31-07.2. Criminal proceeding involving an eligible adult - Speedy trial.

In a criminal proceeding in which an eligible adult is a victim, the court and state's attorney shall take appropriate action to ensure a speedy trial to minimize the length of time the eligible adult must endure the stress of involvement in the proceedings. In ruling on a motion or other

request for a delay or a continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of the eligible adult.

12.1-31-08. Possession or distribution of certain photographs or other visual representations prohibited - Penalty.

Repealed by S.L. 2009, ch. 133, § 3.

12.1-31-09. Fraudulent use of receipts and universal product code labels prohibited - Penalty.

Except as otherwise provided in this section, any person who, with the intent to defraud a retailer, possesses, uses, utters, transfers, alters, counterfeits, or reproduces a retail sales receipt or a universal product code label is guilty of a class A misdemeanor. Any person who, with the intent to defraud a retailer, possesses fifteen or more fraudulent retail sales receipts or universal product code labels or who possesses a device the purpose of which is to manufacture fraudulent retail sales receipts or universal product code labels is guilty of a class C felony. For purposes of this section, "universal product code" means the twelve-digit identification number and bar code system developed by the uniform code council which is used to uniquely identify products.

12.1-31-10. Sale of bidis prohibited - Penalty.

It is an infraction for any person to sell the tobacco product commonly referred to as bidis or beedies. For purposes of this section, "bidis" or "beedies" means a product containing tobacco which is wrapped in temburni leaf, also known as diospyros melanoxylon, or tendu leaf, also known as diospyros exculpra.

12.1-31-11. False representation of marital status.

An individual is guilty of a class B misdemeanor if the individual lives openly and notoriously with an individual of the opposite sex as a married couple without being married to the other individual and falsely represents the couple's status as being married to each other.

12.1-31-12. Abortion - Affirmative defenses.

Repealed by S.L. 2023, ch. 122, § 11.

12.1-31-13. Tattooing, branding, subdermal implants, scarifying, and piercing - Minors.

1. As used in this section:
   a. "Brand" means the use of heat, cold, or any chemical compound to imprint permanent markings on an individual's skin.
   b. "Pierce" means the puncture of any part of an individual's body to insert studs, pins, rings, chains, or other jewelry or adornment.
   c. "Scarify" means to cut, tear, or abrade an individual's skin for the purpose of creating a permanent mark or design on the skin.
   d. "Subdermal implant" means to insert a foreign object beneath the skin to decorate an individual's body.
   e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin.
2. It is a class B misdemeanor for a person, other than a licensed health care professional acting within that professional's scope of practice, to tattoo, brand, subdermal implant, scarify, or pierce an individual who is under eighteen years of age unless the tattooing, branding, subdermal implanting, scarifying, or piercing takes place in the presence of and with the written consent of the individual's parent or legal guardian.
3. It is a class B misdemeanor for a person to sell, trade, or otherwise provide materials or kits for tattooing, self-tattooing, branding, self-branding, scarifying, self-scarifying,

subdermal implanting, self-subdermal implanting, body piercing, or self-body piercing to an individual who is under eighteen years of age.

4. A political subdivision may enact and enforce an ordinance restricting tattooing, branding, subdermal implanting, scarifying, and piercing or restricting the sale of tattooing, branding, subdermal implanting, scarifying, and piercing materials and kits if the ordinance is equal to or more stringent than this section.

12.1-31-14. Surreptitious intrusion or interference with privacy.

1. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
   a. Enters upon another's property and surreptitiously gazes, stares, or peeps into a house or place of dwelling of another; or
   b. Enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.
2. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of an occupant, the individual:
   a. Surreptitiously gazes, stares, or peeps into a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy; or
   b. Surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy.
3. An individual is guilty of an infraction if the individual enters upon another's property and installs any device for observing, recording, or photographing wildlife while the owner of the device is absent unless:
   a. The individual has written permission from the owner or an individual authorized by the owner of the property; and
   b. The device has a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number.
4. In a prosecution under this section, it is an affirmative defense that an individual was acting pursuant to section 50-10.2-02.1.

12.1-31-15. Wearing of masks during commission of criminal offense prohibited.

1. An individual may not wear a mask, hood, or other device that covers, hides, or conceals any portion of that individual's face:
   a. With the intent to intimidate, threaten, abuse, or harass any other individual;
   b. For the purpose of evading or escaping discovery, recognition, or identification during the commission of a criminal offense;
   c. For the purpose of concealment, flight, or escape when the individual has been charged with, arrested for, or convicted of a criminal offense; or
   d. With the intent to conceal the identity of the individual while congregating in a public place with other individuals wearing a mask, hood, or other device that covers, hides, or conceals any portion of the individual's face.
2. Subdivision d of subsection 1 does not apply to public gatherings to celebrate Halloween, a masquerade, or other similar celebration.
3. A violation of this section is a class A misdemeanor.