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SENATE BILL NO. 1369

Offered January 25, 2013

A *BILL to amend and reenact §§ 2.2-204, 2.2-3705.3, 2.2-3711, 4.1-100, 4.1-128, 4.1-210, 4.1-231, 4.1-233, 33.1-23.03:1, and 33.1-23.03:2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 59.1 a chapter numbered 50, containing articles numbered 1 through 9, consisting of sections numbered 59.1-550 through 59.1-587, relating to the Virginia Riverboat Gaming Commission; penalties.*

Patron—Lucas

Unanimous consent to introduce

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-3705.3, 2.2-3711, 4.1-100, 4.1-128, 4.1-210, 4.1-231, 4.1-233, 33.1-23.03:1, and 33.1-23.03:2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 59.1 a chapter numbered 50, containing articles numbered 1 through 9, consisting of sections numbered 59.1-550 through 59.1-587, as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Business Assistance, Virginia Economic Development Partnership Authority, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing Commission, *Virginia Riverboat Gaming Commission*, Tobacco Indemnification and Community Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, *the Virginia Riverboat Gaming Commission*, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management or to such personnel of any local public body, including local school boards as are responsible for conducting such investigations in confidence. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,

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1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vi) the auditors, appointed by the local governing body of any county, city or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department or program of such body. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence received or maintained by the Office or its agents in connection with specific complaints or investigations, and records of communications between employees and agents of the Office and its clients or prospective clients concerning specific complaints, investigations or cases. Upon the conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may not at any time release the identity of any complainant or person with mental illness, intellectual disability, developmental disabilities or other disability, unless (i) such complainant or person or his legal representative consents in writing to such identification or (ii) such identification is required by court order.

9. Information furnished in confidence to the Department of Human Resource Management with respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

10. The names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

11. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

12. Records furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

13. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation conducted by or for the Board of Education related to the denial,

suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure of records to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Records of completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The records disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information in the records regarding a current or former student shall be released except as permitted by state or federal law.

14. Records, notes and information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses or other individuals involved in the investigation.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the

government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § 2.2-3705.1.

12. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed

by family violence fatality review teams established pursuant to § 32.1-283.3.

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. In the case of the Virginia Commonwealth University Health System Authority, discussion or consideration of any of the following: the acquisition or disposition of real or personal property where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; operational plans that could affect the value of such property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would adversely affect the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is discussed.

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting

security matters made confidential pursuant to § 24.2-625.1.

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision F 1 of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 13 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

44. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

46. *Deliberations of the Virginia Riverboat Gaming Commission in a licensing appeal action conducted pursuant to § 59.1-558 regarding the denial or revocation of a license of a riverboat gaming operator and discussion, consideration, or review of matters related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with

formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Casino gaming" means *baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab and any other activity that is authorized by the Virginia Riverboat Gaming Commission as a wagering game or device under Chapter 50 (§ 59.1-550 et seq.) of Title 59.1.*

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing

vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold; ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, ~~internet~~ Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

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

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance

in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

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

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

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

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product

551 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
552 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
553 alcohol content of 21 percent by volume.

554 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and
555 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of
556 wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain
557 water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar
558 products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice
559 beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

560 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
561 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
562 required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by
563 such retail licensee.

564 **§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.**

565 A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance
566 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale
567 distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in
568 the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits
569 or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations
570 of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery.

571 No provision of law, general or special, shall be construed to authorize any county, city or town to
572 adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than
573 the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect
574 the authority of any county, city or town to impose a license or privilege tax or fee on a business
575 engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is
576 based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual
577 license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its
578 taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

579 B. However, the governing body of any county, city, or town may adopt an ordinance which (i)
580 prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of
581 § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii)
582 subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage
583 containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public
584 street.

585 C. *No county, city, or town that has approved riverboat gaming shall adopt any ordinance or*
586 *resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a*
587 *riverboat as defined in Chapter 50 (§ 59.1-550 et seq.) of Title 59.1.*

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

591 **§ 4.1-210. Mixed beverages licenses.**

592 A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to
593 mixed beverages:

594 1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed
595 beverages for consumption in dining areas and other designated areas of such restaurant. Such license
596 may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale
597 of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the
598 premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale
599 of mixed beverages and food. For the purposes of this paragraph, other designated areas shall include
600 outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas
601 may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such
602 areas are under the control of the licensee and approved by the Board.

603 If the restaurant is located on the premises of a hotel or motel with not less than four permanent
604 bedrooms where food and beverage service is customarily provided by the restaurant in designated areas,
605 bedrooms and other private rooms of such hotel or motel, such licensee may ~~(i)~~ (a) sell and serve mixed
606 beverages for consumption in such designated areas, bedrooms and other private rooms and ~~(ii)~~ (b) sell
607 spirits packaged in original closed containers purchased from the Board for on-premises consumption to
608 registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private
609 rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale
610 and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed
611 appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own
612 lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating a performing arts facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) a duly organized nonprofit corporation that has been granted an exemption from federal taxation under § 501(c)(3) of the U.S. Internal Revenue Code of 1986 that owns any rural event and entertainment park or similar facility that has a minimum of 60,000 square feet of indoor exhibit space and equine and other livestock show areas. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the sale, on the dates of performances or events in furtherance of the purposes of the nonprofit corporation or association, of alcoholic beverages, for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat ~~or~~, airplane, *or riverboat licensed under Chapter 50 (§ 59.1-550 et seq.) of Title 59.1*, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier *or riverboat*, and in designated rooms of establishments of air carriers at airports in the Commonwealth.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or

674 similar facilities, for on-premises consumption.

675 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
676 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
677 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
678 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
679 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
680 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
681 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
682 premises in all areas and locations covered by the license.

683 11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or
684 charitable membership organizations that are exempt from state and federal taxation and in charge of
685 banquets conducted exclusively for its members and their guests, which shall authorize the licensee to
686 serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of
687 the place designated in the license. Such license shall authorize the licensee to conduct no more than 12
688 banquets per calendar year.

689 12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve
690 dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs
691 shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the
692 restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall
693 the sale of such wine or liqueur-based drinks exceed 10 percent of the total annual gross sales.

694 13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an
695 outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the
696 licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled
697 events, as well as events or performances immediately subsequent thereto, to patrons in all dining
698 facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises
699 consumption.

700 14. *Mixed beverage casino licenses to persons operating a riverboat gaming operation licensed by*
701 *the Virginia Riverboat Gaming Commission pursuant to Chapter 50 (§ 59.1-550 et seq.) of Title 59.1,*
702 *which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in*
703 *areas approved by the Board on the premises of the place designated in the license.*

704 B. The granting of any license under subdivision 1, 6, 7, 8, 9, 10, 11, ~~or~~ 13, or 14 shall
705 automatically include a license to sell and serve wine and beer for on-premises consumption. The
706 licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

707 **§ 4.1-231. Taxes on state licenses.**

708 A. The annual fees on state licenses shall be as follows:

709 1. Alcoholic beverage licenses. For each:

710 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
711 during the year in which the license is granted, \$450; and if more than 5,000 gallons manufactured
712 during such year, \$3,725;

713 b. Fruit distiller's license, \$3,725;

714 c. Banquet facility license or museum license, \$190;

715 d. Bed and breakfast establishment license, \$35;

716 e. Tasting license, \$40 per license granted;

717 f. Equine sporting event license, \$130;

718 g. Motor car sporting event facility license, \$130;

719 h. Day spa license, \$100;

720 i. Delivery permit, \$120 if the permittee holds no other license under this title;

721 j. Meal-assembly kitchen license, \$100; and

722 k. Canal boat operator license, \$100.

723 2. Wine licenses. For each:

724 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
725 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

726 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
727 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
728 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
729 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
730 of wine per year;

731 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
732 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
733 the number of separate locations covered by the license;

734 c. Wine importer's license, \$370;

735 d. Retail off-premises winery license, \$145, which shall include a delivery permit;

- 736 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
 737 which shall include a delivery permit;
- 738 f. Wine shipper's license, \$95; and
- 739 g. Internet wine retailer license, \$150.
- 740 3. Beer licenses. For each:
- 741 a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which
 742 the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;
- 743 b. Bottler's license, \$1,430;
- 744 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
 745 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
 746 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 747 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
 748 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
 749 license;
- 750 d. Beer importer's license, \$370;
- 751 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
 752 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
 753 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
 754 cars operated daily in the Commonwealth;
- 755 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 756 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
 757 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
 758 delivery permit;
- 759 h. Beer shipper's license, \$95; and
- 760 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 761 4. Wine and beer licenses. For each:
- 762 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
 763 common carrier of passengers by train, boat ~~or~~, airplane, *or riverboat licensed under Chapter 50*
 764 *(§ 59.1-550 et seq.) of Title 59.1*, \$300; for each such license to a common carrier of passengers by train
 765 or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars
 766 operated daily in the Commonwealth, and for each such license granted to a common carrier of
 767 passengers by airplane, \$750;
- 768 b. Retail on-premises wine and beer license to a hospital, \$145;
- 769 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
 770 grocery store license, \$230, which shall include a delivery permit;
- 771 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
 772 include a delivery permit;
- 773 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
 774 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
 775 \$100 per license;
- 776 f. Gourmet brewing shop license, \$230;
- 777 g. Wine and beer shipper's license, \$95;
- 778 h. Annual banquet license, \$150;
- 779 i. Fulfillment warehouse license, \$120;
- 780 j. Marketing portal license, \$150; and
- 781 k. Gourmet oyster house license, \$230.
- 782 5. Mixed beverage licenses. For each:
- 783 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 784 located on premises of and operated by hotels or motels, or other persons:
- 785 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 786 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 787 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 788 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 789 private, nonprofit clubs:
- 790 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 791 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
 792 \$1,860; and
- 793 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
- 794 c. Mixed beverage caterer's license, \$1,860;
- 795 d. Mixed beverage limited caterer's license, \$500;
- 796 e. Mixed beverage special events license, \$45 for each day of each event;

- 797 f. Mixed beverage club events licenses, \$35 for each day of each event;
 798 g. Annual mixed beverage special events license, \$560;
 799 h. Mixed beverage carrier license:
 800 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
 801 Commonwealth by a common carrier of passengers by train;
 802 (ii) \$560 for each common carrier of passengers by boat;
 803 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 804 i. Annual mixed beverage amphitheater license, \$560;
 805 j. Annual mixed beverage motor sports race track license, \$560;
 806 k. Annual mixed beverage banquet license, \$500;
 807 l. Limited mixed beverage restaurant license:
 808 (i) With a seating capacity at tables for up to 100 persons, \$460;
 809 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 810 (iii) With a seating capacity at tables for more than 150 persons, \$1,330; ~~and~~
 811 m. Annual mixed beverage motor sports facility license, \$560; *and*
 812 *n. Mixed beverage casino license granted to persons operating a riverboat gaming establishment*
 813 *licensed pursuant to Chapter 50 (§ 59.1-550 et seq.) of Title 59.1, \$2 per gaming station.*
 814 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
 815 imposed by this section on the license for which the applicant applied.
 816 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
 817 subject to proration to the following extent: If the license is granted in the second quarter of any year,
 818 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 819 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 820 three-fourths.
 821 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
 822 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
 823 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
 824 number of gallons permitted to be manufactured shall be prorated in the same manner.
 825 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
 826 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
 827 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
 828 would have been charged had such license been applied for at the time that the license to manufacture
 829 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
 830 shall be entitled to a refund of the amount of license tax previously paid on the limited license.
 831 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
 832 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
 833 cent, multiplied by the number of months in the license period.
 834 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
 835 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
 836 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
 837 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
 838 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
 839 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
 840 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
 841 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
 842 shall be disregarded.
 843 **§ 4.1-233. Taxes on local licenses.**
 844 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
 845 not exceed the following sums:
 846 1. Alcoholic beverages. - For each:
 847 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
 848 more than 5,000 gallons of alcohol or spirits, or both, during such license year;
 849 b. Fruit distiller's license, \$1,500;
 850 c. Bed and breakfast establishment license, \$40;
 851 d. Museum license, \$10;
 852 e. Tasting license, \$5 per license granted;
 853 f. Equine sporting event license, \$10;
 854 g. Day spa license, \$20;
 855 h. Motor car sporting event facility license, \$10;
 856 i. Meal-assembly kitchen license, \$20; and
 857 j. Canal boat operator license, \$20.
 858 2. Beer. - For each:

- 859 a. Brewery license, \$1,000;
 860 b. Bottler's license, \$500;
 861 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
 862 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
 863 license in a city, \$100, and in a county or town, \$25; and
 864 e. Beer shipper's license, \$10.
 865 3. Wine. - For each:
 866 a. Winery license, \$50;
 867 b. Wholesale wine license, \$50;
 868 c. Farm winery license, \$50; and
 869 d. Wine shipper's license, \$10.
 870 4. Wine and beer. - For each:
 871 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
 872 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
 873 store license, in a city, \$150, and in a county or town, \$37.50;
 874 b. Hospital license, \$10;
 875 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
 876 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
 877 per license;
 878 d. Gourmet brewing shop license, \$150;
 879 e. Wine and beer shipper's license, \$10;
 880 f. Annual banquet license, \$15; and
 881 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
 882 5. Mixed beverages. - For each:
 883 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
 884 by hotels or motels, or other persons:
 885 (i) With a seating capacity at tables for up to 100 persons, \$200;
 886 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 887 (iii) With a seating capacity at tables for more than 150 persons, \$500.
 888 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 889 c. Mixed beverage caterer's license, \$500;
 890 d. Mixed beverage limited caterer's license; \$100;
 891 e. Mixed beverage special events licenses, \$10 for each day of each event;
 892 f. Mixed beverage club events licenses, \$10 for each day of each event;
 893 g. Annual mixed beverage amphitheater license, \$300;
 894 h. Annual mixed beverage motor sports race track license, \$300;
 895 i. Annual mixed beverage banquet license, \$75;
 896 j. Limited mixed beverage restaurant license:
 897 (i) With a seating capacity at tables for up to 100 persons, \$100;
 898 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
 899 (iii) With a seating capacity at tables for more than 150 persons, \$400; and
 900 k. Annual mixed beverage motor sports facility license, \$300; and
 901 l. *Mixed beverage casino license granted to persons operating a riverboat gaming establishment*
 902 *licensed pursuant to Chapter 50 (§ 59.1-550 et seq.) of Title 59.1, \$1 per gaming station.*
 903 B. Common carriers. - No local license tax shall be either charged or collected for the privilege of
 904 selling alcoholic beverages in (i) passenger trains, boats ~~or~~, airplanes, *or riverboats licensed under*
 905 *Chapter 50 (§ 59.1-550 et seq.) of Title 59.1* and (ii) rooms designated by the Board of establishments
 906 of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
 907 C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in
 908 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local
 909 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,
 910 may include alcoholic beverages in the base for measuring such local license taxes the same as if the
 911 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter
 912 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local
 913 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license
 914 taxes authorized by this chapter.
 915 The governing body of any county, city or town, in adopting an ordinance under this section, shall
 916 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation
 917 under the ordinance, and in computing the local wholesale merchants' license tax on such beer
 918 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be
 919 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license

920 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine
921 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale
922 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall
923 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary
924 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax
925 paid by such wholesale wine licensee.

926 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
927 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
928 wholesaler maintains no place of business in such county, city or town.

929 E. Application of county tax within town. - Any county license tax imposed under this section shall
930 not apply within the limits of any town located in such county, where such town now, or hereafter,
931 imposes a town license tax on the same privilege.

932 **§ 11-16.1. Exemption from chapter; certain riverboat gaming operations.**

933 *This chapter shall not apply to any bet, wager, or gaming permitted by Chapter 50 (§ 59.1-550 et*
934 *seq.) of Title 59.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.*

935 **§ 18.2-334.5. Exemption from article; certain riverboat gaming operations.**

936 *Nothing in this article shall be construed to make it illegal to participate in any gaming operation*
937 *conducted in accordance with Chapter 50 (§ 59.1-550 et seq.) of Title 59.1.*

938 **§ 33.1-23.03:1. Transportation Trust Fund.**

939 There is hereby created in the Department of the Treasury a special nonreverting fund to be known
940 as the Transportation Trust Fund, consisting of:

941 1. Funds remaining for highway construction purposes, among the several highway systems pursuant
942 to § 33.1-23.1.

943 2. [Repealed.]

944 3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of
945 Assembly, 1986 Special Session, and designated for this fund.

946 4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title
947 which are payable into the state treasury and tolls and other revenues derived from other transportation
948 projects, which may include upon the request of the applicable appointed governing body, as soon as
949 their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant
950 to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and to the Richmond Metropolitan
951 Authority, established in Chapter 70 (§ 15.2-7000 et seq.) of Title 15.2, or if the appointed governing
952 body requests refunding or advanced refunding by the Board and such refunding or advanced refunding
953 is approved by the General Assembly. Such funds shall be held in separate subaccounts of the
954 Transportation Trust Fund to the extent required by law or the Board.

955 5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such
956 funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth
957 in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

958 6. Such other funds as may be appropriated by the General Assembly from time to time, and
959 designated for this fund.

960 7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and
961 the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the
962 Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund
963 shall not become part of the Transportation Trust Fund until July 1, 1988.

964 8. All amounts required by contract to be paid over to the Transportation Trust Fund.

965 9. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private
966 Transportation Act of 1995 (§ 56-556 et seq.).

967 10. *The revenues deposited into the Transportation Trust Fund pursuant to Chapter 50 (§ 59.1-550 et*
968 *seq.) of Title 59.1.*

969 **§ 33.1-23.03:2. Commonwealth Space Flight Fund, Commonwealth Port Fund, Commonwealth**
970 **Airport Fund and Commonwealth Mass Transit Fund.**

971 Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of
972 § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an
973 aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.7
974 percent shall be set aside as the Commonwealth Mass Transit Fund. Beginning with the
975 Commonwealth's 2012-2013 fiscal year through the Commonwealth's 2016-2017 fiscal year, each fiscal
976 year from the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of
977 § 33.1-23.03:1 the Comptroller shall transfer \$9.5 million to the Commonwealth Space Flight Fund. The
978 remaining funds deposited into or held in the Transportation Trust Fund pursuant to subdivision 3 of
979 § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and, 6, and 10 of
980 § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction,
981 maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure

bonds issued for such purposes, as provided by the Board and the General Assembly.

CHAPTER 50.

VIRGINIA RIVERBOAT GAMING.

Article I.

General Provisions.

§ 59.1-550. Definitions.

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

"Adjusted gross receipts" means the gross receipts from riverboat gaming less winnings paid to winners.

"Cheat" means to alter the selection criteria that determine the result of a game or the amount or frequency of payment in a game for the purpose of obtaining an advantage for one or more participants in a game over other participants in a game.

"Commission" means the Virginia Riverboat Gaming Commission created pursuant to § 59.1-552.

"Designated navigable waters" means (i) those portions of the Rappahannock River, James River, York River, Elizabeth River, and Appomattox River, and of their respective tidal bays, inlets, and primary tributaries, extending from the Commonwealth's territorial sea to the fall line and (ii) the territorial sea and its tidal bays, inlets, and primary tributaries, including the Chesapeake Bay and Hampton Roads.

"Dock" means the location on designated navigable waters where a riverboat moors for the purpose of embarking passengers for, and disembarking passengers from, a gaming excursion.

"Entity" means a person that is not a natural person.

"Gaming excursion" means the time during which gaming is conducted on a riverboat.

"Gaming operation" means the conduct of authorized riverboat gaming within a riverboat gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by riverboat gaming patrons.

"Licensee" or "license holder" includes any person holding an operator's license under § 59.1-564.

"Permit holder" includes any person holding a supplier or service permit pursuant to this chapter.

"Person" means a natural person, partnership, joint venture, association, limited liability company, stock corporation, or nonstock corporation and includes any person that directly or indirectly controls or is under common control with another person.

"Principal" means any person who individually or together with his spouse and immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity, and any person who manages a riverboat gaming operation on behalf of a licensee.

"Riverboat" means a self-propelled vessel on which lawful gaming is authorized and licensed as provided in this chapter.

"Riverboat gaming" and "game" include, but are not limited to, baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab and any other activity that is authorized by the Commission as a wagering game or device under this chapter.

"Riverboat gaming establishment" means the premises upon which lawful gaming is authorized and licensed as provided in this chapter.

"Territorial sea" means the waters of the Atlantic Ocean within the belt, three nautical miles wide, that is adjacent to Virginia's coast and seaward of the mean low-water mark.

"Security" shall have the meaning prescribed by § 13.1-501. If the Commission finds that any obligation, stock, or other equity interest creates control of or voice in the management operations of an entity in the manner of a security, then such interest shall be considered a security.

"Supplier" means any person that sells or leases, or contracts to sell or lease, any gaming equipment, devices, or supplies, or provides any management services, to a licensee.

§ 59.1-551. Regulation and control of riverboat gaming.

A. Riverboat gaming shall be licensed and permitted as herein provided aboard excursion vessels and riverboats meeting the requirements of this chapter on designated navigable waters within the boundaries of the Commonwealth to benefit the people of the Commonwealth. The Commission established under this chapter is vested with control of all riverboat gaming in the Commonwealth, with authority to prescribe regulations and conditions under this chapter. The purposes of this chapter to assist economic development, promote tourism, and provide for the implementation of riverboat gaming operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest, or unprincipled practices.

B. The conduct of any riverboat gaming in every riverboat gaming establishment and entrance to

such establishment is a privilege that may be granted or denied by the Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter.

C. This chapter does not permit gaming or wagering in any manner not provided for herein.

§ 59.1-552. Virginia Riverboat Gaming Commission created; members.

A. The Virginia Riverboat Gaming Commission is created and shall consist of five members appointed by the Governor for five-year terms and confirmed by a majority of those elected to each house of the General Assembly at the next regular session following any such appointment. Each member shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. A vacancy in the Commission shall be filled for the unexpired term. Each member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than five years shall thereafter be eligible for reappointment to two consecutive terms of five years each. The Commission shall elect one of its members as chairman. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

B. The members of the Commission shall serve at the pleasure of the Governor.

C. The Commission shall establish and maintain a general business office within the Commonwealth for the transaction of its business at a place to be determined by the Commission. The Commission shall meet at such times and places within the Commonwealth as it shall determine. A majority of the members shall constitute a quorum for the convening of a meeting, but the performance of any duty or the exercise of any power of the Commission shall require a majority of the entire Commission.

§ 59.1-553. Financial interests of Commission members, employees, and family members prohibited.

No member or employee of the Commission and no spouse or immediate family member of any such member or employee shall have any financial interest, direct or indirect, (i) in any riverboat gaming operation or other enterprise subject to the provisions of this chapter or in any entity that has submitted an application for a license or permit under this chapter or (ii) in any horse racetrack, satellite facility, or operation incident thereto subject to the provisions of Chapter 29 (§ 59.1-364 et seq.); in any entity that has submitted an application for a license under Article 2 (§ 59.1-375 et seq.) of Chapter 29; in the operation of any such track or satellite facility within the Commonwealth; or in the operation of any wagering authorized under Chapter 29.

No member of the Commission and no spouse or immediate family member of a Commission member shall participate as a principal or owner of a riverboat gaming operation, or have any pecuniary interest in the winnings from any riverboat gaming operation, or participate as owner of a horse or otherwise as a contestant in any race subject to the jurisdiction of the Virginia Racing Commission, or have any pecuniary interest in the purse or prize contested for in any such race.

No member of the Commission and no spouse or immediate family member of a Commission member shall make any contribution to a candidate for office or office holders on the local or state level or cause a contribution to be made on his behalf.

§ 59.1-554. Powers and duties of the Commission.

A. The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of riverboat gaming as set forth in § 59.1-551 including but not limited to the power and duty to:

1. Issue permits and licenses under this chapter and supervise all riverboat gaming operations licensed under the provisions of this chapter, including all persons conducting or participating in any riverboat gaming operation. The Commission shall employ such persons to be present during the conduct of riverboat gaming operations as are necessary to ensure that such operations are conducted with order and the highest degree of integrity. The Commission may eject or exclude from a riverboat gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of riverboat gaming or interfere with the orderly conduct of riverboat gaming.

2. Promulgate regulations regarding the conditions under which riverboat gaming shall be conducted in the Commonwealth and all such other regulations it deems necessary and appropriate to further the purposes of this chapter.

3. Issue an operator's license only to a person who meets the criteria of § 59.1-564.

4. Inspect, investigate, and have free access to the office, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of satisfying itself that this chapter and Commission regulations are strictly complied with. The Commission may require the production of the annual balance sheets and operating statements of any person licensed or granted a permit pursuant to the provisions of this chapter and may require the production of any contract to which such person is or may be a party.

5. Issue subpoenas for the attendance of witnesses before the Commission, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever in the judgment of the Commission it is necessary to do so for the effectual discharge of its duties.

6. Compel any person holding a license or permit to file with the Commission such information as shall appear to the Commission to be necessary for the performance of its duties including, but not limited to, financial statements and information relative to principals and all others with any pecuniary interest in such person. The Commission may prescribe the manner in which books and records of such persons shall be kept.

7. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of riverboat gaming operations or the efficient conduct of the Commission's duties.

8. Order such audits, in addition to those required by § 59.1-556, as it deems necessary and desirable.

9. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or payoff for winning a game and establish the thresholds for such withholdings.

10. Submit an annual report to the Governor and the General Assembly, including a financial statement of the operation of the Commission.

B. The Commission and its Executive Secretary shall have the power, authority, and duties of peace officers for the purposes of enforcing the provisions of this chapter. Upon the receipt of a credible complaint of an alleged criminal violation of this chapter, the Commission shall immediately report the complaint to the Attorney General and the State Police for appropriate action.

§ 59.1-555. Executive Secretary; staff.

A. The Commission shall appoint an Executive Secretary and such other employees as it deems necessary to perform its duties under this chapter, who shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees may include inspectors, accountants, guards, and such other employees deemed by the Commission to be necessary for the supervision and the proper conduct of the highest standard of riverboat gaming. Such employees shall be compensated as provided by the Commission.

B. The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and complete record of all proceedings of the Commission and preserve at the Commission's general office all books, documents, and papers of the Commission. Neither the Executive Secretary nor the spouse or any member of the immediate family of the Executive Secretary shall make any contributions to a candidate for office or office holder at the local or state level or cause such a contribution to be made on his behalf.

§ 59.1-556. Audit required.

A regular post-audit shall be conducted of all accounts and transactions of the Commission. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Commission shall be conducted by the Auditor of Public Accounts on or before September 30 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Commission.

§ 59.1-557. Background investigations required.

The Commission shall require a background investigation, including a fingerprint-based criminal history records check, of the following persons by a representative of an appropriate law-enforcement agency of the Commonwealth or federal government: (i) every person applying for a license or permit pursuant to this chapter; (ii) every person who is an officer, director, or principal of a licensee or applicant for a license and every employee of the licensee who conducts gaming operations; (iii) all security personnel of any licensee; (iv) employees of the Commission; (v) all permit holders, and officers, directors, principals, and employees of permit holders whose duties relate to riverboat gaming operations in Virginia; and (vi) any other person who the Commission determines actively participates in the riverboat gaming activities of any licensee or permit holder or applicant for a license or permit.

§ 59.1-558. Hearing and appeal.

Any person aggrieved by a refusal of the Commission to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a fine, or any other action of the Commission may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 59.1-559. Injunction.

Whenever it appears to the Commission that any person has violated or may violate any provision of this chapter or any regulation or final decision of the Commission, the Commission may apply to the appropriate circuit court for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

§ 59.1-560. Riverboat Gaming Commission Operations Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Riverboat Gaming Commission Operations Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys to be deposited into the fund pursuant to § 59.1-579 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Commission to fund its operations as it relates to the administration and regulation of riverboat gaming pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Commission.

Article 2.

Licenses.

§ 59.1-561. Operator's license required; license not transferable.

A. No person shall operate a riverboat gaming operation unless he has obtained an operator's license issued by the Commission in accordance with the provisions of this article.

B. No license issued under the provisions of this chapter shall be transferable.

§ 59.1-562. Application for operator's license; penalty.

A. Any person desiring to operate a riverboat gaming operation shall file with the Commission an application for an operator's license. Such application shall be filed at the place prescribed by the Commission and shall be in such form and contain such information as prescribed by the Commission, including but not limited to the following:

1. The name and address of such person; if a corporation, the state of its incorporation, the full name and address of each officer and director thereof, and, if a foreign corporation, whether it is qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address of each general partner thereof; if a limited liability company, the name and address of each manager thereof; or if another entity, the name and address of each person performing duties similar to those of officers, directors, and general partners;

2. The name and address of each principal and of each person who has contracted to become a principal in the applicant, including providing management services with respect to any part of riverboat gaming operations; the nature and cost of such principal's interest; and the name and address of each person who has agreed to lend money to the applicant;

3. Such information as the Commission considers appropriate regarding the character, background, and responsibility of the applicant and the principals, officers, and directors of the applicant;

4. A description of the riverboats on which such gaming operations are to be conducted, the city or county where such riverboats will be docked and routes over which they are proposed to be operated, and the number of gaming stations to be provided on each riverboat. The Commission shall require such information about a riverboat and its location as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter, and whether the conduct of riverboat gaming operations at such location will be in furtherance of the purposes of this chapter;

5. Such information relating to the financial responsibility of the applicant and the applicant's ability to perform under its license as the Commission considers appropriate;

6. If any of the facilities necessary for the conduct of riverboat gaming operations are to be leased, the terms of such lease;

7. The design and layout of each proposed riverboat, whether proposed for permanent or for interim use, and whether any such riverboat is a modification of an existing vessel or a vessel of new construction;

8. If the riverboat is to dock within a locality that has not approved riverboat gaming in the manner herein specified, the date the locality is anticipated to provide such approval;

9. Evidence of compliance by the applicant with the economic development and land use plans and design review criteria of the local governing body of the locality in which the riverboat gaming establishment is proposed to be located; and

10. Any other information that the Commission in its discretion considers appropriate.

B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant and shall be accompanied by the application fee provided for herein.

C. A nonrefundable application fee of \$50,000 shall be paid at the time of filing to defray the costs associated with the background investigation conducted by the Commission. If the costs of the investigation exceed \$50,000, the applicant shall pay the additional amount to the Commission. The Commission may establish regulations calculating the costs to the Commission in performing its functions under this chapter and allocating such costs to the applicants for licensure.

D. The licensed operator shall be the person primarily responsible for the riverboat gaming operation and compliance with the provisions of this chapter. The applicant shall identify each riverboat it intends to use on an interim basis or permanent basis and certify that each riverboat will (i) comply

with the provisions of this chapter; (ii) be either modeled after a nineteenth-century riverboat or be of a cruise ship design; and (iii) be eligible for registration, certification, and licensing in accordance with all applicable laws and regulations.

E. Any person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

§ 59.1-563. Notice to local governing body; local impact.

A. The Commission shall notify the local governing body of the locality where a proposed riverboat gaming establishment will be located within 15 days of the filing of the application. Such notification shall be made through the county or city attorney or the chief law-enforcement officer of the locality. Within 30 days of receipt of the notification from the Commission, the local governing body shall submit its basis for supporting or objecting to the granting of a license.

B. The Commission shall consider the support of the local governing body and the compatibility of the applicant's proposed operations with the economic development and land use plans and design review criteria of the local governing body.

§ 59.1-564. Issuance of operator's license.

A. The Commission may issue an operator's license to a person only if it finds that:

1. The riverboats and appurtenant facilities the applicant proposes to use on a permanent basis are or will be appropriate for the finest quality of riverboat gaming operations and that any riverboats and appurtenant facilities the applicant proposes to use on an interim basis are consistent with the purposes of this chapter;

2. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable and have been subscribed and will be paid for only in cash or property to the exclusion of past services;

3. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the Virginia courts, and all nonresident principals have designated the Executive Secretary of the Commission as their agent for receipt of process;

4. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and require the resignation of, any person who is or becomes disqualified under subsection C;

5. The applicant meets the criteria established by this chapter and the Commission for the granting of an operator's license;

6. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts of the Commonwealth; and

7. The applicant has not previously been denied a license pursuant to subsection C.

B. The Commission may issue, in addition to those licenses issued pursuant to subsection B, up to five licenses authorizing and requiring the holders of such licenses to operate no more than two riverboats, each having at least 400, but not more than 1,200, gaming stations.

C. The Commission shall deny a license to an applicant, if it finds that for any reason the issuance of a license to the applicant would reflect adversely on the honesty and integrity of the riverboat gaming industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of the applicant:

1. Is or has been guilty of any illegal, corrupt, or fraudulent act, conduct, or practice in connection with riverboat gaming operations in this or any other state, has knowingly failed to comply with the provisions of this chapter or Commission regulations, or has been convicted of a felony;

2. Has had a license or permit to hold or conduct a riverboat gaming operation denied for cause, suspended, or revoked, in this or any other state or country, unless the license or permit was subsequently granted or reinstated;

3. Has at any time during the previous five years knowingly failed to comply with the provisions of this chapter or any Commission regulation;

4. Has knowingly made a false statement of material fact to the Commission or has deliberately failed to disclose any information requested by the Commission;

5. Has defaulted in the payment of any obligation or debt due to the Commonwealth and has not cured such default; or

6. Has operated or caused to be operated a riverboat gaming establishment for which a license is required under this chapter without obtaining such license.

D. No operator shall be granted more than one license and no principal of a licensee shall at the same time be a principal of any other licensee.

§ 59.1-565. Denial of license final.

The denial of an operator's license by the Commission shall be final unless appealed under § 59.1-558, and a license may not be applied for again for a period of five years from the date of denial without leave of the Commission.

§ 59.1-566. Duration and form of operator's license; bond.

1289 A. A license issued under this chapter shall be for the period set by the Commission, not to be less
1290 than 10 years, but shall be reviewed no less frequently than annually to determine compliance with this
1291 chapter and Commission regulations. The Commission shall establish criteria and procedures for license
1292 renewal and for amending licenses to conform to changes in a licensee's operations. Renewal shall not
1293 be unreasonably refused.

1294 B. The Commission shall require a bond with surety acceptable to it, and in an amount determined
1295 by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

1296 **§ 59.1-567. Records to be kept; reports.**

1297 A. A licensed operator shall keep his books and records so as to show clearly the following:

1298 1. The amount received daily from admission fees;

1299 2. The total amount of gross receipts; and

1300 3. The total amount of adjusted gross receipts.

1301 B. The licensed operator shall furnish to the Commission reports and information as the Commission
1302 may require with respect to its activities on forms designated and supplied for such purpose by the
1303 Commission.

1304 C. The books and records required under this section to be kept by a licensed operator are public
1305 records and the examination, publication, and dissemination of the books and records are governed by
1306 the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

1307 **§ 59.1-568. Audit of licensed operations.**

1308 Within 90 days after the end of each year, the licensed operator shall transmit to the Commission an
1309 audit of the financial transactions and condition of the licensee's total operations. All audits required by
1310 this section shall conform to Commission regulations.

1311 Article 3.

1312 **Supplier's Permits.**

1313 **§ 59.1-569. Supplier's permits; penalty.**

1314 A. The Commission may issue a supplier's permit to persons upon application therefor and the
1315 payment of a nonrefundable application fee set by the Commission, upon a determination by the
1316 Commission that the applicant is eligible for a supplier's permit and upon payment of a \$5,000 initial
1317 permit fee. A supplier's permit must be renewed annually at a fee to be determined by the Commission,
1318 not to exceed \$5,000, and is not transferable.

1319 B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, gaming equipment
1320 and supplies, or provide management services, to any licensee involved in the ownership or management
1321 of riverboat gaming operations to the extent provided in the permit.

1322 C. Gaming supplies and equipment may not be distributed unless supplies and equipment conform to
1323 standards adopted by the Commission.

1324 D. A person is ineligible to receive a supplier's permit if:

1325 1. The person has been convicted of a felony under the laws of the Commonwealth or any other state
1326 or of the United States;

1327 2. The person has submitted an application for a license under this chapter that contains false
1328 information;

1329 3. The person is a member or employee of the Commission;

1330 4. The person is an entity in which a person defined in subdivision 1, 2, or 3 is an officer, director,
1331 principal, or managerial employee;

1332 5. The firm or corporation employs a person who participates in the management or operation of
1333 riverboat gaming authorized under this chapter; or

1334 6. The permit issued to such person under this chapter, or a license or permit to own or operate
1335 riverboat gaming facilities or supply goods or services to a riverboat gaming operation in any other
1336 jurisdiction, has been revoked.

1337 E. Any person that supplies any gaming equipment, devices, or supplies to a licensed riverboat
1338 gaming operation, or manages any operation, including a computerized network, of a riverboat, shall
1339 first obtain a supplier's permit. A supplier shall furnish to the Commission a list of all management
1340 services, equipment, devices, and supplies offered for sale or lease in connection with the games
1341 authorized under this chapter. A supplier shall keep books and records for the furnishing of equipment,
1342 devices, and supplies to gaming operations separate and distinct from any other business that the
1343 supplier might operate. A supplier shall file a quarterly return with the Commission listing all sales and
1344 leases for which a permit is required. A supplier shall permanently affix its name to all its equipment,
1345 devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used
1346 by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth. A licensed
1347 operator may operate its own equipment, devices, and supplies and may utilize gaming equipment,
1348 devices, and supplies at such locations as may be approved by the Commission for the purpose of
1349 training enrollees in a school operated by the licensee to train persons who desire to become qualified
1350 for employment or promotion in gaming operations. The Commission may establish rules for the conduct

of any such schools. Each holder of an operator's license under this chapter shall file an annual report listing its inventories of gaming equipment, devices, and supplies related to its operations in Virginia.

F. Any person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

§ 59.1-570. Denial of permit final.

The denial of a supplier's permit by the Commission shall be final unless appealed under § 59.1-558, and a permit may not be applied for again for a period of five years from the date of denial without the permission of the Commission.

Article 4.

Suspension and Revocation of Licenses and Supplier's Permits; Acquisition of Interest in Licensee or Holder of Supplier's Permit.

§ 59.1-571. Suspension or revocation of license or permit.

After a hearing, with 15 days' notice, the Commission may suspend or revoke any license or supplier's permit, or assess a civil penalty against the holder thereof in a sum not to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with or has been violated. The Commission may revoke or suspend such license or permit if it finds that facts not known by it at the time it considered the application indicate that such license or permit should not have been issued. Deliberations of the Commission hereunder shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If any such license or permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 59.1-558. Suspension or revocation of a license or permit by the Commission for any violation shall not preclude criminal liability for such violation.

§ 59.1-572. Acquisition of interest in licensee or permit holder.

The Commission shall require any person desiring to become a principal of, or other investor in, any licensee or holder of a supplier's permit to apply to the Commission for approval and may demand such information of the applicant as it finds necessary. The Commission shall consider such application within 60 days of its receipt and if in its judgment the acquisition by the applicant would be detrimental to the public interest, to the honesty and integrity of riverboat gaming operations, or to its reputation, the application shall be denied.

Article 5.

Service Permits.

§ 59.1-573. Permit required.

No person shall participate in any riverboat gaming operations as a riverboat gaming employee, concessionaire, or employee thereof, or other occupation the Commission considers necessary to regulate in order to ensure the integrity of riverboat gaming in the Commonwealth, unless such person possesses a permit to perform such occupation issued by the Commission and complies with the provisions of this chapter and all Commission regulations. No permit issued under the provisions of this chapter shall be transferable.

§ 59.1-574. Application for permit.

A. Any person desiring to obtain a permit as required by this chapter shall apply on a form prescribed by the Commission. The application shall be accompanied by a fee prescribed by the Commission.

B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

§ 59.1-575. Consideration of application.

A. The Commission shall promptly consider any application for a service permit and issue or deny such permit based on the information in the application and all other information before it, including any investigation it considers appropriate. If an application for a permit is approved, the Commission shall issue a permit, containing such information as the Commission considers appropriate. Such permit shall be valid for one year. The Commission shall establish criteria and procedures for permit renewal.

B. The Commission shall deny the application and refuse to issue the permit, which denial shall be final unless an appeal is taken under § 59.1-558, if it finds that the issuance of such permit to such applicant would not be in the best interests of the Commonwealth or would reflect on the honesty and integrity of riverboat gaming in the Commonwealth or that the applicant:

1. Has knowingly made a false statement of a material fact in the application or has deliberately failed to disclose any information requested by the Commission;

2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with riverboat gaming operations in this or any other state;

3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the Commission;

4. Has had a permit to engage in activity related to riverboat gaming denied for cause, suspended,

or revoked in this or any other state, and such denial, suspension, or revocation is still in effect;

5. Is unqualified to perform the duties required for the permit sought; or

6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering, fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery, embezzlement, administration or possession of drugs, or any crime considered by the Commission to be detrimental to riverboat gaming in the Commonwealth.

C. The Commission may refuse to issue a service permit if for any reason it feels the granting of such permit is not consistent with the provisions of this chapter or its responsibilities or any regulations promulgated by any other agency of the Commonwealth.

§ 59.1-576. Suspension or revocation of service permit; civil penalty.

The Commission may suspend or revoke a service permit issued under this chapter or assess a civil penalty against the holder of such permit in a sum not to exceed \$10,000, after a hearing for which proper notice has been given to the permit holder, in any case where it has reason to believe that any provision of this chapter or any regulation, order, or condition of the Commission has not been complied with or has been violated. The Commission may revoke or suspend such permit, after such hearing, if it finds that facts not known by it at the time it was considering the application indicate that such permit should not have been issued. If any permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is taken in accordance with § 59.1-558. Suspension or revocation of a permit by the Commission for any violation shall not preclude criminal liability for such violation.

Article 6.

Conduct of Riverboat Gaming.

§ 59.1-577. Conduct of riverboat gaming.

A. Gaming may be conducted by licensed operators, subject to the following standards:

1. No gaming operations may be conducted on docks or other appurtenant facilities of a riverboat other than a training school. No gaming may be conducted aboard a riverboat when it is docked except (i) during embarkation and disembarkation of passengers immediately preceding and following actual cruising, pursuant to such limitations as may be established by the Commission, or (ii) when under highly unusual conditions the master of the vessel deems it unsafe to leave the dock due to weather or environmental conditions, or the Commission determines, after consultation with the U.S. Army Corps of Engineers or other responsible federal or state agencies, that the waterway on which the riverboat is licensed to cruise has become nonnavigable. Upon a determination pursuant to clause (ii), the licensed operator shall advise all passengers prior to their embarkation that the riverboat will not depart the dock. After having embarked, passengers shall not be permitted to disembark prior to the scheduled end of the excursion, except under circumstances that would constitute an emergency or for a period not to exceed 30 minutes as determined by Commission regulations, to permit the orderly embarkation and disembarkation of passengers by the licensee.

2. Gaming excursions shall not exceed four hours with the exception of extended cruises expressly approved by the Commission.

3. Minimum and maximum wagers on games shall be set by the licensee.

4. Agents of the Commission and the Department of State Police may enter any riverboat gaming establishment and inspect such facility at any time for the purpose of determining compliance with this chapter.

5. Employees of the Commission shall have the right to be present in any facilities under the control of the licensee.

6. Gaming equipment and supplies customarily used in conducting riverboat gaming shall be purchased or leased only from suppliers holding permits for such purpose under this chapter.

7. Persons licensed under this chapter shall permit no form of wagering on games except as permitted by this chapter.

8. Wagers may be received only from a person present at the licensed gaming establishment. No person present at such facility shall place or attempt to place a wager on behalf of another person who is not present at the facility.

9. No person under age 21 shall be permitted where gaming is being conducted. No person under age 21 shall be permitted to make a wager under this chapter.

10. Riverboat gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased from a licensed riverboat gaming operator. Such tokens, chips, or electronic cards may be used only for the purpose of making wagers on games.

11. No licensee or permit holder shall accept postdated checks in payment for participation in any riverboat gaming operation. No licensee or permit holder, or any person on the premises of a riverboat gaming establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in payment for participation in any riverboat gaming operation.

B. It shall be unlawful for any person to erect, maintain, or operate any pier or other structure;

operate any ferry, shuttle, or other device; or enter onto any of the foregoing, for purposes of transporting persons from the Commonwealth to any facility or premises where gaming is conducted other than a riverboat licensed under this chapter.

C. Gaming shall be conducted in accordance with all Commission regulations.

Article 7.

Taxation and Audit.

§ 59.1-578. Wagering tax; rate; distribution.

A. A tax at the rate of 20 percent is imposed on the adjusted gross receipts of each licensed operator received from games authorized under this chapter. The taxes imposed by this section shall be paid by the licensed operator to the Commission no later than the close of the business day following the day when the adjusted gross receipts were received and shall be accompanied by forms and returns prescribed by the Commission. The Commission may suspend or revoke the license of an operator for willful failure to submit the wagering tax payment or the return within the specified time.

B. The proceeds of the tax imposed pursuant to subsection A, shall be deposited by the Comptroller as follows:

1. Fifty percent shall be paid to the Transportation Trust Fund established under § 33.1-23.03:1 to be used for transportation purposes as provided under § 33.1-23.03:2.

2. Subject to the provisions of § 59.1-580, 50 percent shall be paid to the Local Riverboat Gaming Proceeds Fund established pursuant to § 59.1-581.

§ 59.1-579. Admission tax; fees; distribution.

A. A tax is imposed upon admissions to gaming excursions authorized pursuant to this chapter at a rate of \$2 per person admitted. This admission tax is imposed upon the licensed operator.

1. If free passes or complimentary admission tickets are issued, the licensed operator shall pay the same tax upon these passes or complimentary tickets at the rate of \$2 per person admitted.

2. The licensed operator may issue tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working in the riverboat gaming establishment.

3. The number and issuance of tax-free passes is subject to regulations of the Commission, and a list of all persons to whom the tax-free passes are issued shall be filed with the Commission.

B. From the \$2 tax imposed under subsection A:

1. Subject to the provisions of § 59.1-579, \$1 shall be paid to the Transportation Trust Fund established under § 33.1-23.03:1 to be used for transportation purposes as provided under § 33.1-23.03:2; and

2. One dollar shall be paid to the Local Riverboat Gaming Proceeds Fund established pursuant to § 59.1-581.

C. The licensed operator shall pay the entire admission tax to the Commission. Such payments shall be made at the time prescribed for paying the wagering tax. Accompanying each payment shall be a return on forms provided by the Commission that shall include other information regarding admissions as the Commission may require.

D. The admission tax under this chapter shall be in lieu of any local admission tax imposed on riverboat gaming conducted within such locality.

E. The Commission may suspend or revoke the license of an operator for willful failure to submit either the payment or the return within the specified time.

§ 59.1-580. Operations of the Commission.

From the amounts to be deposited to the Transportation Trust Fund pursuant to this chapter, the Comptroller shall, on a monthly basis, deposit one-twelfth of the amount provided in the general appropriation act for the operation and administration of the Commission into the Riverboat Gaming Commission Operations Fund established pursuant to § 59.1-560.

§ 59.1-581. Local Riverboat Gaming Proceeds Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Local Riverboat Gaming Proceeds Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures from the Fund shall be made as follows:

1. For adjusted gross receipts tax established pursuant to § 59.1-578, the proceeds of the tax shall be paid by the Comptroller to each locality in which riverboat gaming establishments are located. The tax proceeds shall be paid on a pro rata basis using the quarterly adjusted gross receipts tax proceeds generated in each locality. Payments by the Comptroller shall be made no later than the twentieth day of the month immediately following the end of the calendar quarter. To facilitate such payments, the Commission shall provide a written certificate to the Comptroller reporting the most recent quarterly adjusted gross receipts tax proceeds generated in each locality not later than the tenth day of the month

1535 immediately following the end of the calendar quarter.

1536 2. For the admission tax established pursuant to § 59.1-579, revenues deposited into the Fund shall
1537 be paid by the Comptroller to the locality in which the admission tax was collected. Such payment shall
1538 be paid quarterly to the treasurer of such locality. To facilitate such payments, the Commission shall
1539 provide a written certificate to the Comptroller reporting the admission tax deposited into the Fund in
1540 the most recent quarter by locality where the tax was collected. The certificate shall be provided to the
1541 Comptroller no later than the tenth day of the month immediately following the end of the calendar
1542 quarter, and the Comptroller shall make the corresponding payment to each locality no later than the
1543 twentieth day of the month immediately following the end of the calendar quarter.

1544 3. Interest credited to the Fund shall be paid by the Comptroller to each locality using the same
1545 formula established under subdivision 1 for payment of the adjusted gross receipts tax proceeds.

1546 Article 8.

1547 Local Referendum.

1548 § 59.1-582. Local referendum required.

1549 The Commission shall not grant any initial license to operate a riverboat gaming operation until a
1550 referendum approving the question is held in each county, city, or town in which such riverboat gaming
1551 operation is to be located, in the following manner:

1552 1. A petition, signed by no less than five percent of the qualified voters of such county, city, or town,
1553 shall be filed with the circuit court of such county, city, or town asking that a referendum be held on
1554 the question, "Shall riverboat gaming be permitted at a riverboat gaming establishment in (name of such
1555 county, city, or town) as may be approved by the Virginia Riverboat Gaming Commission in accordance
1556 with Chapter 50 (§ 59.1-550 et seq.) of Title 59.1 of the Code of Virginia?"

1557 2. Following the filing of such petition, the court shall, by order of record entered in accordance
1558 with § 24.2-684.1, require the regular election officers of such county, city, or town to cause a special
1559 election to be held to take the sense of the qualified voters on the question. Such election shall be on a
1560 day designated by order of such court, but shall not be later than the next general election unless such
1561 general election is within 60 days of the date of the entry of such order, nor shall it be held on a date
1562 designated as a primary election.

1563 3. The clerk of such court of record of such county, city, or town shall publish notice of such
1564 election in a newspaper of general circulation in such county, city, or town once a week for three
1565 consecutive weeks prior to such election.

1566 4. The regular election officers of such county, city, or town shall open the polls at the various
1567 voting places in such county, city, or town on the date specified in such order and conduct such election
1568 in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral
1569 board of the county, city, or town and on which shall be printed the following question:

1570 "Shall riverboat gaming be permitted at a riverboat gaming establishment in (name of
1571 county, city, or town) as may be approved by the Virginia Riverboat Gaming Commission in accordance
1572 with Chapter 50 (§ 59.1-550 et seq.) of Title 59.1 of the Code of Virginia?"

1573 _____ Yes

1574 _____ No"

1575 In the blank shall be inserted the name of the county, city, or town in which such election is held.
1576 Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately
1577 preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any
1578 voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding
1579 the word "No," leaving the square immediately preceding the word "Yes" unmarked.

1580 5. The ballots shall be counted, the returns made and canvassed as in other elections, and the results
1581 certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an
1582 order proclaiming the results of such election and a duly certified copy of such order shall be
1583 transmitted to the Commission and to the governing body of such county, city, or town.

1584 6. No such referendum shall be held more often than every three years in the same county, city, or
1585 town.

1586 7. A subsequent local referendum shall be required if a license has not been granted by the
1587 Commission within five years of the court order proclaiming the results of the election. "Town," for
1588 purposes of this section, means any town with a population of 5,000 or more.

1589 Article 9.

1590 Prohibited Acts; Penalties.

1591 § 59.1-583. Illegal operation; penalty.

1592 A. No person shall:

1593 1. Operate riverboat gaming where wagering is used or to be used without a license issued by the
1594 Commission;

1595 2. Operate riverboat gaming where wagering is permitted other than in the manner specified by this
1596 chapter;

3. Offer, promise, or give anything of value or benefit to a person who is connected with a riverboat gaming operation, including, but not limited to, an officer or employee of a licensed operator or permit holder, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Commission or a local governing body;

4. Solicit or knowingly accept or receive a promise of anything of value or benefit while the person is connected with a riverboat gaming operation, including, but not limited to, an officer or employee of a licensed operator or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Commission or a local governing body;

5. Use or possess with the intent to use a device to assist:

a. In projecting the outcome of a game;

b. In keeping track of the cards played;

c. In analyzing the probability of the occurrence of an event relating to a game; or

d. In analyzing the strategy for playing or betting to be used in a game except as permitted by the Commission;

6. Cheat at gaming;

7. Manufacture, sell, or distribute any cards, chips, dice, game, or device that is intended to be used to violate any provision of this chapter;

8. Alter or misrepresent the outcome of a game on which wagers have been made after the outcome is made sure but before it is revealed to the players;

9. Place a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game that is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;

10. Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a game, with intent to defraud, without having made a wager contingent on winning the game, or claim, collect, or take an amount of money or thing of value of greater value than the amount won;

11. Use counterfeit chips or tokens in a game;

12. Possess any key or device designed for the purpose of opening, entering, or affecting the operation of a game, drop box, or electronic or mechanical device connected with the game or for removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a gaming licensee or employee of a gaming licensee acting in furtherance of the employee's employment; or

13. Wager on the outcome of sporting events.

B. Any person convicted of a violation of this section shall be guilty of a Class 6 felony. In addition, any person convicted of a violation of subdivisions A 3 through 13 shall be barred for life from riverboat gaming operations under the jurisdiction of the Commission.

§ 59.1-584. Fraudulent use of credential; penalty.

Any person other than the lawful holder thereof who has in his possession any credential, license, or permit issued by the Commission, or forged or simulated credential, license, or permit of the Commission, and who uses such credential, license, or permit for the purposes of misrepresentation, fraud, or touting is guilty of a Class 4 felony.

Any credential, license, or permit issued by the Commission, if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties in a riverboat gaming establishment, shall be automatically revoked.

§ 59.1-585. Persons under 21 years of age prohibited; penalty.

No person shall wager on or conduct any wagering on the outcome of a game pursuant to the provisions of this chapter unless such person is 21 years of age or older. No person shall accept any wager from a person under age 21. Violation of this section shall be a Class 1 misdemeanor.

§ 59.1-586. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates, or combines with another, either within or without the Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 4 felony.

B. Any person who attempts to commit any act prohibited by this chapter is guilty of a criminal offense punishable as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 59.1-587. Civil penalties.

Any person who conducts a riverboat gaming operation without first obtaining a license to do so, or who continues to conduct such games after revocation of his license, in addition to other penalties provided, shall be subject to a civil penalty equal to the amount of gross receipts derived from wagering on games, whether unauthorized or authorized, conducted on the day as well as confiscation and forfeiture of all gaming equipment used in the conduct of unauthorized games.

1658 2. That the initial appointments to the Virginia Riverboat Gaming Commission shall be as follows:
1659 one member for a term of one year, one member for a term of two years, one member for a term
1660 of three years, one member for a term of four years, and one member for a term of five years.
1661 Thereafter, all appointments shall be for terms of five years.
1662 3. That the provisions of this act may result in a net increase in periods of imprisonment or
1663 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot
1664 be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter
1665 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing
1666 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated
1667 amount of the necessary appropriation cannot be determined for periods of commitment to the
1668 custody of the Department of Juvenile Justice.