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SENATE BILL NO. 687

Offered January 9, 2013

Prefiled July 16, 2012

A BILL to amend and reenact § 4.1-100, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 11-16.1 and 18.2-334.5; and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 50, consisting of articles numbered 1 through 8, containing sections numbered 59.1-550 through 59.1-583, relating to the creation of the Virginia Casino Gaming Commission; casino gaming authorized in certain jurisdictions; penalties

Patron—Lucas

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, 4.1-210, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted; that the Code of Virginia is amended by adding sections numbered 11-16.1 and 18.2-334.5; and by adding in Title 59.1 a chapter numbered 50, consisting of articles numbered 1 through 8, containing sections numbered 59.1-550 through 59.1-583, as follows:

§ 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 which is authorized by the Virginia Casino 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
120 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.

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

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

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

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

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

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

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

204 "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of
205 fruits or other agricultural products containing (i) sugar, including honey and milk, either with or
206 without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product
207 of distillation. The term includes any wine to which wine spirits have been added, as provided in the
208 Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an
209 alcohol content of 21 percent by volume.

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

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

220 **§ 4.1-210. Mixed beverages licenses.**

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

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

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

242 If the restaurant is located on the premises of and operated by a private, nonprofit or profit club
243 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, 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, 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 similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on

1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

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

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

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

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

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses. For each:

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

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

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

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

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

f. Equine sporting event license, \$130;

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

h. Day spa license, \$100;

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

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

k. Canal boat operator license, \$100.

2. Wine licenses. For each:

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

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

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

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

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

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$95; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150, and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or

less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$95; and

i. Retail off-premises brewery license, \$120, which shall include a delivery permit.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;

f. Gourmet brewing shop license, \$230;

g. Wine and beer shipper's license, \$95;

h. Annual banquet license, \$150;

i. Fulfillment warehouse license, \$120;

j. Marketing portal license, \$150; and

k. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500; and

428 1. Limited mixed beverage restaurant license:

429 (i) With a seating capacity at tables for up to 100 persons, \$460;

430 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875; and

431 (iii) With a seating capacity at tables for more than 150 persons, \$1,330; and

432 *m. Mixed beverage restaurant license granted to persons operating a gaming establishment licensed*
433 *pursuant to Chapter 50 (§ 59.1-550 et seq.) of Title 59.1, \$2.00 per gaming station.*

434 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
435 imposed by this section on the license for which the applicant applied.

436 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
437 subject to proration to the following extent: If the license is granted in the second quarter of any year,
438 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
439 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
440 three-fourths.

441 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
442 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
443 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
444 number of gallons permitted to be manufactured shall be prorated in the same manner.

445 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
446 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
447 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
448 would have been charged had such license been applied for at the time that the license to manufacture
449 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person
450 shall be entitled to a refund of the amount of license tax previously paid on the limited license.

451 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than
452 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest
453 cent, multiplied by the number of months in the license period.

454 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
455 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
456 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
457 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
458 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license
459 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining
460 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the
461 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases
462 shall be disregarded.

463 **§ 4.1-233. Taxes on local licenses.**

464 A. In addition to the state license taxes, the annual local license taxes which may be collected shall
465 not exceed the following sums:

466 1. Alcoholic beverages. - For each:

467 a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not
468 more than 5,000 gallons of alcohol or spirits, or both, during such license year;

469 b. Fruit distiller's license, \$1,500;

470 c. Bed and breakfast establishment license, \$40;

471 d. Museum license, \$10;

472 e. Tasting license, \$5 per license granted;

473 f. Equine sporting event license, \$10;

474 g. Day spa license, \$20;

475 h. Motor car sporting event facility license, \$10;

476 i. Meal-assembly kitchen license, \$20; and

477 j. Canal boat operator license, \$20.

478 2. Beer. - For each:

479 a. Brewery license, \$1,000;

480 b. Bottler's license, \$500;

481 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

482 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
483 license in a city, \$100, and in a county or town, \$25; and

484 e. Beer shipper's license, \$10.

485 3. Wine. - For each:

486 a. Winery license, \$50;

487 b. Wholesale wine license, \$50;

488 c. Farm winery license, \$50; and

489 d. Wine shipper's license, \$10.

4. Wine and beer. - For each:
- a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;
 - b. Hospital license, \$10;
 - c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;
 - d. Gourmet brewing shop license, \$150;
 - e. Wine and beer shipper's license, \$10;
 - f. Annual banquet license, \$15; and
 - g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
5. Mixed beverages. - For each:
- a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
 - (i) With a seating capacity at tables for up to 100 persons, \$200;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$500.
 - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
 - c. Mixed beverage caterer's license, \$500;
 - d. Mixed beverage limited caterer's license; \$100;
 - e. Mixed beverage special events licenses, \$10 for each day of each event;
 - f. Mixed beverage club events licenses, \$10 for each day of each event;
 - g. Annual mixed beverage amphitheater license, \$300;
 - h. Annual mixed beverage motor sports race track license, \$300;
 - i. Annual mixed beverage banquet license, \$75; ~~and~~
 - j. Limited mixed beverage restaurant license:
 - (i) With a seating capacity at tables for up to 100 persons, \$100;
 - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250; and
 - (iii) With a seating capacity at tables for more than 150 persons, \$400; *and*
 - k. *Mixed beverage restaurant license granted to persons operating a gaming establishment licensed pursuant to Chapter 50 (§ 59.1-550 et seq.) of Title 59.1, \$1.00 per gaming station.*
- B. Common carriers. - No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.
- C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.
- The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.
- D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.
- E. Application of county tax within town. - Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

§ 11-16.1. Exemption from the chapter.

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

§ 18.2-334.5. Exemptions to article; certain casino gaming operations.

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

CHAPTER 50.

CASINO GAMING.

Article 1.

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 casino gaming less winnings paid to winners.

"Cheat" means to alter the selection criteria which 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 Casino Gaming Commission created pursuant to § 59.1-552.

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

"Casino 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 which is authorized by the Commission as a wagering game or device under this chapter.

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

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

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by casino 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 which 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 owns or controls, directly or indirectly, (i) five percent or more of the pecuniary interest in any entity which 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 casino gaming operation on behalf of a licensee.

"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 who 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 casino gaming; prerequisites for approval.

A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the Commonwealth. The Commission established under this chapter is vested with control of all casino gaming in the Commonwealth, with authority to prescribe regulations and conditions under this chapter. The purposes of this chapter are to assist economic development, promote tourism, and provide for the implementation of gaming operations of the highest quality, honesty, and integrity, and free of any corrupt, incompetent, dishonest or unprincipled practices.

B. The conduct of casino gaming shall be limited to localities that in which at least fifty percent of the land area is exempt from local real property taxation pursuant to federal law or Article 10, Section 6 a (1) through a (5) and a (7) of the Constitution of Virginia.

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

§ 59.1-552. The Virginia Casino Gaming Commission created; members.

A. The Virginia Casino Gaming Commission is created and shall consist of five members appointed by the Governor 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 Commissioner 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. The initial appointments shall be made on or before September 1, 1994, and shall be for the following terms: one for a term of one year, one

for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter, all appointments shall be for terms of five years. A vacancy in the Commission shall be filled for the unexpired term. Each Commissioner 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 its 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 Commissioners 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 casino gaming operation or other enterprise subject to the provisions of this chapter or in any entity which 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 which 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 casino gaming operation, or have any pecuniary interest in the winnings from any casino 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 their behalf.

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

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise control of casino gaming. Such powers and duties shall include but not be limited to the following:

A. The Commission is vested with jurisdiction to issue permits and licenses under this chapter and to supervise all casino gaming operations licensed under the provisions of this chapter, including all persons conducting or participating any casino gaming operation. It shall employ such persons to be present during the conduct of casino gaming operations as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from a casino 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 casino gaming, or interfere with the orderly conduct of casino gaming.

B. The Commission, or its representatives and employees, shall visit, 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. In addition, 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.

C. The Commission shall promulgate, and from time to time amend, regulations and conditions under which casino gaming shall be conducted in the Commonwealth and all such other regulations it deems necessary and appropriate to further the purposes of this chapter. All regulations of the Commission may include penalties for violations and shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

D. Commission may issue an operator's license only to a person who meets the criteria of § 59.1-564.

E. The Commission may issue subpoenas for the attendance of witnesses before it, 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.

F. The Commission may compel any person holding a license or permit to file with the Commission such data 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

674 *pecuniary interest in such person. It may prescribe the manner in which books and records of such*
675 *persons shall be kept.*

676 *G. The Commission may enter into arrangements with any foreign or domestic governmental agency*
677 *for the purposes of exchanging information or performing any other act to better ensure the proper*
678 *conduct of casino gaming operations or the efficient conduct of the Commission's duties.*

679 *H. The Commission shall report annually to the Governor and the General Assembly, which report*
680 *shall include a financial statement of the operation of the Commission.*

681 *I. The Commission may order such audits, in addition to those required by § 59.1-556, as it deems*
682 *necessary and desirable.*

683 *J. The Commission shall upon the receipt of a credible complaint of an alleged criminal violation of*
684 *this chapter immediately report the complaint to the Attorney General and the State Police for*
685 *appropriate action.*

686 *K. The Commission shall provide for the withholding of the applicable amount of state and federal*
687 *income tax of persons claiming a prize or pay-off for winning a game and shall establish the thresholds*
688 *for such withholdings.*

689 *L. The Commission and its Executive Secretary shall have the power, authorities and duties of peace*
690 *officers for the purposes of enforcing the provisions of this chapter.*

691 **§ 59.1-555. Commission; Executive Secretary; staff.**

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

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

704 **§ 59.1-556. Audit required.**

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

709 **§ 59.1-557. Fingerprints and background investigations.**

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

719 **§ 59.1-558. Hearing and appeal.**

720 *Any person aggrieved by a refusal of the Commission to issue any license or permit, the suspension*
721 *or revocation of a license or permit, the imposition of a fine, or any other action of the Commission,*
722 *may, within thirty days of such action, appeal to the Circuit Court of the City of Richmond. If the court*
723 *finds that the action of the Commission was arbitrary, it shall order such action as it deems*
724 *appropriate. The decision of the court shall be subject to appeal as in other cases at law.*

725 **§ 59.1-559. Injunction.**

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

730 **§ 59.1-560. State Casino Gaming Operations Fund.**

731 *All moneys and revenues received by the Commission under this chapter shall be placed in a special*
732 *fund known as the State Casino Gaming Operations Fund. Notwithstanding any other provision of law,*
733 *interest earned from moneys in the State Casino Gaming Operations Fund shall accrue to the benefit of*
734 *such fund.*

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

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

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 casino 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 this Commonwealth; if a partnership or joint venture, the name and address of each general partner thereof; if a limited liability company, each manager thereof; or if another entity, 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 in respect of any part of 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 casino gaming establishment in which such gaming operations are to be conducted, the city or county where such facility will be located. The Commission shall require such information about a casino gaming operation 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 casino 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 casino gaming operations are to be leased, the terms of such lease;

7. 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 casino gaming establishment is proposed to be located; and

8. Any other information which 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.

D. An application shall be filed with the Commission prior to January 31, 2012, for calendar year 2012 and thereafter prior to January 1 of the calendar year for which an applicant seeks an operator's license. The Commission shall act on applications promptly and in no event later than July 1 of such year. Supplemental information, if requested by the Commission and filed by the applicant within the time specified by the Commission, shall be deemed filed with the original application. 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 applicants.

E. The licensed operator shall be the person primarily responsible for the casino gaming operation and compliance with the provisions of this chapter.

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

§ 59.1-563. Approval of local governing body; local impact.

A. The Commission shall notify the local governing body of the locality where a proposed casino 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. The local governing body shall submit its basis for supporting or objecting to the granting of a license within 30 days of the receipt of the notification from the Commission.

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:

797 1. The casino gaming establishment the applicant proposes to use on a permanent basis are or will
798 be appropriate for the finest quality of casino gaming operations consistent with the purposes of this
799 chapter;

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

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

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

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

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

812 7. The applicant is not disqualified to hold a license pursuant to subsection B.

813 B. An applicant shall be disqualified for a license, and the Commission shall deny a license to an
814 applicant, if it finds that for any reason the issuance of a license to the applicant would reflect
815 adversely on the honesty and integrity of the casino gaming industry in the Commonwealth, or that the
816 applicant, or any officer, principal, manager, or director of the applicant:

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

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

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

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

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

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

831 C. The Commission shall issue an operator's license to any person who satisfies the requirements of
832 subsections A and B.

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

835 **§ 59.1-565. Duration, form of operator's license; bond.**

836 A. A license issued under this chapter shall be for the period set by the Commission, not to be less
837 than ten years, but shall be reviewed no less frequently than annually to determine compliance with this
838 chapter and Commission regulations. The Commission shall establish criteria and procedures for vessel
839 replacement, for license renewal, and for amending licenses to conform to changes in a licensee's
840 operations. Renewal shall not be unreasonably refused.

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

843 **§ 59.1-566. Records to be kept; reports.**

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

845 1. The amount received daily from admission fees;

846 2. The total amount of gross receipts; and

847 3. The total amount of adjusted gross receipts.

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

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

854 **§ 59.1-567. Audit of licensed operations.**

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

*Supplier's Permits.***§ 59.1-568. Supplier's permits; penalty.**

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

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

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

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

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

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

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

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

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

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

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

§ 59.1-569. 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 leave 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.

§ 59.1-570. Suspension or revocation of license or permit.

After a hearing, with fifteen 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

920 final unless appealed in accordance with § 59.1-558. Suspension or revocation of a license or permit
921 by the Commission for any violation shall not preclude criminal liability for such violation.

922 **§ 59.1-571. Acquisition of interest in licensee or permit holder.**

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

929 Article 5.

930 Service Permits.

931 **§ 59.1-572. Permit required.**

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

937 **§ 59.1-573. Application for permit.**

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

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

942 **§ 59.1-574. Consideration of application.**

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

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

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

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

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

958 4. Has had a permit to engage in activity related to casino gaming denied for cause, suspended or
959 revoked in any other state, and such denial, suspension or revocation is still in effect;

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

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

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

968 **§ 59.1-575. Suspension or revocation of service permit; civil penalty.**

969 The Commission may suspend or revoke a service permit issued under this chapter or assess a civil
970 penalty against the holder of such permit in a sum not to exceed \$10,000, after a hearing for which
971 proper notice has been given to the permittee, in any case where it has reason to believe that any
972 provision of this chapter, or any regulation, order, or condition of the Commission, has not been
973 complied with, or has been violated. The Commission may revoke or suspend such permit, after such
974 hearing, if it finds that facts not known by it at the time it was considering the application indicate that
975 such permit should not have been issued. Deliberations of the Commission under this section shall be
976 conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If
977 any permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be
978 entered of record. Such action shall be final unless an appeal is taken in accordance with § 59.1-558.
979 Suspension or revocation of a permit by the Commission for any violation shall not preclude criminal
980 liability for such violation.

981 Article 6.

*Conduct of Gaming.***§ 59.1-576. Conduct of gaming.**

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

1. Minimum and maximum wagers on games shall be set by the licensee.
2. Agents of the Commission and the Department of State Police may enter any casino gaming establishment and inspect such facility at any time for the purpose of determining compliance with this chapter.
3. Employees of the Commission shall have the right to be present in any facilities under the control of the licensee.
4. Gaming equipment and supplies customarily used in conducting casino gaming shall be purchased or leased only from suppliers holding permits for such purpose under this chapter.
5. Persons licensed under this chapter shall permit no form of wagering on games except as permitted by this chapter.
6. 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.
7. A person under age 21 shall not be permitted where gaming is being conducted. No person under age 21 shall be permitted to make a wager under this chapter.
8. Casino gaming wagers shall be conducted only with money or with tokens, chips or electronic cards purchased from a licensed casino gaming operator. Such tokens, chips or electronic cards may be used only for the purpose of making wagers on games.
9. No licensee or permit holder shall accept postdated checks in payment for participation in any gaming operation. No licensee or permit holder, or any person on the premises of casino gaming establishment, shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment for participation in any gaming operation.
10. Gaming shall be conducted in accordance with all Commission regulations.

*Article 7.**Taxation and Audit.***§ 59.1-577. Wagering tax; rate; distribution.**

A. A tax is imposed on the adjusted gross receipts received from games authorized under this chapter at the rate of 20 percent. 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, shall be deposited by the Commission in the State Casino Gaming Operations Fund established pursuant to § 59.1-560, and shall be accompanied by forms 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, and that portion of the admission tax levied pursuant to § 59.1-577 which accrues to the Commonwealth, net of the costs of operation and administration of the Commission paid from the Fund pursuant to § 59.1-560, shall be distributed from the State Casino Gaming Operations Fund in the following manner:

1. Fifty percent shall be paid to the localities in which casino gaming establishments are located in proportion to the adjusted gross receipts. Such payment shall be paid quarterly by the Commonwealth to the treasurer of such locality.

2. Ten percent of the tax revenue deposited in the State Casino Gambling Operations Fund under this section shall be paid to the Governor's Conversion Fund as set forth in the general appropriations act.

C. The remainder of the funds generated by this chapter and not otherwise allocated shall be paid into the general fund.

§ 59.1-578. Admission tax; fees.

A. A tax is imposed upon admissions to gaming excursions authorized pursuant to this chapter at a rate of two dollars per person admitted. This admission tax is imposed upon the licensed operator conducting the gaming excursion.

1. If tickets are issued which are good for more than one gaming excursion, the admission tax shall be paid for each person using the ticket on each gaming excursion for which the ticket is used.

2. If free passes or complimentary admission tickets are issued, the licensee shall pay the same tax upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.

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

4. 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 two-dollar tax imposed under subsection A, the county or city where the casino gaming

establishment is located shall receive from the Commonwealth one dollar. The city or county share shall be collected by the Commission on behalf of the Commonwealth and paid quarterly by the Commonwealth to the treasurer of the unit of local government for deposit in the general fund, and shall be in lieu of local admission taxes.

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 which shall include other information regarding admissions as the Commission may require. 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.

Article 8.

Prohibited Acts; Penalties.

§ 59.1-579. Illegal operation; penalty.

A. No person shall:

1. Operate casino gaming where wagering is used or to be used without a license issued by the Commission.

2. Operate casino gaming where wagering is permitted other than in the manner specified by this chapter.

3. Offer, promise, or give anything of value or benefit to a person who is connected with a casino 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 casino 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 gaming 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 which 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 which 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 claims, collects, or takes 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.

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 3 through 13 of subsection A shall be barred for life from casino gaming operations under the jurisdiction of the Commission.

§ 59.1-580. 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 shall be 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 on a in a casino facility,

shall be automatically revoked.

§ 59.1-581. 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.

§ 59.1-582. Conspiracies and attempts to commit violations; penalty.

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

B. Any person who attempts to commit any act prohibited by this article shall be guilty of a criminal offense and punished as provided in either § 18.2-26, 18.2-27 or 18.2-28, as appropriate.

§ 59.1-583. Civil penalties.

Any person who conducts a 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.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.