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SENATE BILL NO. 34

Offered January 13, 2016

Prefiled December 14, 2015

A BILL to amend and reenact §§ 2.2-3711, 4.1-100, as it is currently effective and as it shall become effective, 4.1-210, 4.1-231, 4.1-233, and 37.2-304 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 9, consisting of sections numbered 58.1-4100 through 58.1-4133, relating to regulation of casino gaming by Virginia Lottery Board; penalties.

Patrons—Lucas and Locke; Delegate: Heretick

Referred to Committee on General Laws and Technology**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-3711, 4.1-100, as it is currently effective and as it shall become effective, 4.1-210, 4.1-231, 4.1-233, and 37.2-304 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 9, consisting of sections numbered 58.1-4100 through 58.1-4133, as follows:

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

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

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

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

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

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

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

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

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

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59 or is consulted on a matter.

60 8. In the case of boards of visitors of public institutions of higher education, discussion or
61 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
62 for services or work to be performed by such institution. However, the terms and conditions of any such
63 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
64 person and accepted by a public institution of higher education in Virginia shall be subject to public
65 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
66 (i) "foreign government" means any government other than the United States government or the
67 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
68 created under the laws of the United States or of any state thereof if a majority of the ownership of the
69 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
70 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
71 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
72 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

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

106 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
107 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
108 or emergency service officials concerning actions taken to respond to such matters or a related threat to
109 public safety; discussion of records excluded from this chapter pursuant to subdivision 3 or 4 of
110 § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the
111 security of any facility, building, structure, information technology system, or software program; or
112 discussion of reports or plans related to the security of any governmental facility, building or structure,
113 or the safety of persons using such facility, building or structure.

114 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
115 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the
116 University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings
117 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or
118 other ownership interest in an entity, where such security or ownership interest is not traded on a
119 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
120 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement

system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

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

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

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

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

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

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

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

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

182 the public body.

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

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

190 32. [Expired.]

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

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

196 35. Discussion or consideration by the State Board of Elections or local electoral boards of voting
197 security matters made confidential pursuant to § 24.2-625.1.

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

201 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards
202 Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of
203 § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship
204 award, review and consider scholarship applications and requests for scholarship award renewal, and
205 cancel, rescind, or recover scholarship awards.

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

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

214 40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of
215 § 2.2-3705.6.

216 41. Discussion or consideration by the Board of Education of records relating to the denial,
217 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of
218 § 2.2-3705.3.

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

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

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

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

231 46. Discussion or consideration of personal and proprietary information that are excluded from the
232 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of
233 § 10.1-104.7. This exemption shall not apply to the discussion or consideration of records that contain
234 information that has been certified for release by the person who is the subject of the information or
235 transformed into a statistical or aggregate form that does not allow identification of the person who
236 supplied, or is the subject of, the information.

237 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia
238 Alcoholic Beverage Control Authority of records excluded from this chapter pursuant to subdivision 1 of
239 § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

240 48. *Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to*
241 *§ 58.1-4106 regarding the denial or revocation of a license of a casino gaming operator and*
242 *discussion, consideration, or review of matters related to investigations exempted from disclosure under*
243 *subdivision 1 of § 2.2-3705.3.*

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

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

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

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

§ 4.1-100. (Effective until July 1, 2018) 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, powder or crystal, 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.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"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

305 *tab and any other activity that is authorized by the Virginia Lottery Board as a wagering game or*
306 *device under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.*

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

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

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

321 "Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains
322 grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes,
323 processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with
324 the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility
325 for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied
326 the grapes, fruits, or other agricultural products used in the production of the wine. The contract
327 winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have
328 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm
329 winery for its services.

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

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

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

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

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

341 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
342 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
343 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol
344 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
345 area or agreements for purchasing grapes or other fruits from agricultural growers within the
346 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
347 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"
348 includes an accredited public or private institution of higher education provided that (a) no wine
349 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used
350 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored
351 on the premises of such farm winery that shall be separate and apart from all other facilities of the
352 institution, and (d) such farm winery is operated in strict conformance with the requirements of this
353 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include
354 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the
355 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes
356 all of the land owned or leased by the individual members of the cooperative as long as such land is
357 located in the Commonwealth.

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

366 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may

lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group,

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 4.1-100. (Effective July 1, 2018) 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, powder or crystal, 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.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"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 Board of Directors of the Virginia Alcoholic Beverage Control Authority.

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

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

"Casino gaming" means *baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab and any other activity that is authorized by the Virginia Lottery Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.*

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

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

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

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have

551 not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm
552 winery for its services.

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

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

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

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

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

564 "Farm winery" means an establishment (i) located on a farm in the Commonwealth with a producing
565 vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the
566 premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol
567 by volume or (ii) located in the Commonwealth with a producing vineyard, orchard, or similar growing
568 area or agreements for purchasing grapes or other fruits from agricultural growers within the
569 Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or
570 lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery"
571 includes an accredited public or private institution of higher education provided that (a) no wine
572 manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used
573 solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored
574 on the premises of such farm winery that shall be separate and apart from all other facilities of the
575 institution, and (d) such farm winery is operated in strict conformance with the requirements of this
576 sentence and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include
577 a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the
578 event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes
579 all of the land owned or leased by the individual members of the cooperative as long as such land is
580 located in the Commonwealth.

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

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

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

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

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

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

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

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

608 "Licensed" means the holding of a valid license granted by the Authority.

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

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

612 "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.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"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 Authority 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 Authority may consider the purpose, characteristics, and operation of the applicant establishment in

determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

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

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

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

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

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

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

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

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

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

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

§ 4.1-210. Mixed beverages licenses.

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

lawfully acquired spirits in bedrooms or private rooms.

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

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

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

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

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition 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) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. 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 licensee to sell alcoholic beverages during scheduled events and performances 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. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

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

797 authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic
798 or similar disposable containers to patrons within all seating areas, concourses, walkways, concession
799 areas, or similar facilities, for on-premises consumption.

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

806 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any
807 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on
808 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed
809 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events
810 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing
811 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization
812 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the
813 premises in all areas and locations covered by the license.

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

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

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

832 14. Annual mixed beverage performing arts facility license to corporations or associations operating a
833 performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii)
834 is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than
835 one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards.
836 Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for
837 on-premises consumption in areas upon the licensed premises approved by the Board.

838 15. A combined mixed beverage restaurant and caterer's license, which may be granted to any
839 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to
840 subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location,
841 and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed
842 beverage caterer at the same business premises designated in the license, with a common alcoholic
843 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the
844 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision
845 A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

846 16. *Mixed beverage casino licenses to persons operating a casino gaming operation licensed by the*
847 *Virginia Lottery Board pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, which shall authorize*
848 *the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the*
849 *Virginia Lottery Board on the premises of the casino gaming establishment designated in the license.*

850 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, ~~or~~ 15, or 16
851 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The
852 licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

853 **§ 4.1-231. Taxes on state licenses.**

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

855 1. Alcoholic beverage licenses. For each:

856 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured
857 during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than
858 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured

859 during such year, \$3,725;
 860 b. Fruit distiller's license, \$3,725;
 861 c. Banquet facility license or museum license, \$190;
 862 d. Bed and breakfast establishment license, \$35;
 863 e. Tasting license, \$40 per license granted;
 864 f. Equine sporting event license, \$130;
 865 g. Motor car sporting event facility license, \$130;
 866 h. Day spa license, \$100;
 867 i. Delivery permit, \$120 if the permittee holds no other license under this title;
 868 j. Meal-assembly kitchen license, \$100;
 869 k. Canal boat operator license, \$100;
 870 l. Annual arts venue event license, \$100; and
 871 m. Art instruction studio license, \$100.
 872 2. Wine licenses. For each:
 873 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the
 874 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
 875 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per
 876 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000
 877 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than
 878 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons
 879 of wine per year;
 880 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more
 881 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by
 882 the number of separate locations covered by the license;
 883 c. Wine importer's license, \$370;
 884 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
 885 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
 886 which shall include a delivery permit;
 887 f. Wine shipper's license, \$95; and
 888 g. Internet wine retailer license, \$150.
 889 3. Beer licenses. For each:
 890 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
 891 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
 892 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
 893 b. Bottler's license, \$1,430;
 894 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
 895 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
 896 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
 897 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
 898 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
 899 license;
 900 d. Beer importer's license, \$370;
 901 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
 902 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
 903 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
 904 cars operated daily in the Commonwealth;
 905 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
 906 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
 907 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
 908 delivery permit;
 909 h. Beer shipper's license, \$95; and
 910 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
 911 4. Wine and beer licenses. For each:
 912 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
 913 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
 914 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
 915 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
 916 a common carrier of passengers by airplane, \$750;
 917 b. Retail on-premises wine and beer license to a hospital, \$145;
 918 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
 919 grocery store license, \$230, which shall include a delivery permit;

920 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
 921 include a delivery permit;
 922 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
 923 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
 924 \$100 per license;
 925 f. Gourmet brewing shop license, \$230;
 926 g. Wine and beer shipper's license, \$95;
 927 h. Annual banquet license, \$150;
 928 i. Fulfillment warehouse license, \$120;
 929 j. Marketing portal license, \$150; ~~and~~
 930 k. Gourmet oyster house license, \$230; *and*
 931 *l. Mixed beverage casino license granted to persons operating a casino gaming establishment*
 932 *licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, \$2 per gaming station.*
 933 5. Mixed beverage licenses. For each:
 934 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
 935 located on premises of and operated by hotels or motels, or other persons:
 936 (i) With a seating capacity at tables for up to 100 persons, \$560;
 937 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
 938 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
 939 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
 940 private, nonprofit clubs:
 941 (i) With an average yearly membership of not more than 200 resident members, \$750;
 942 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
 943 \$1,860; and
 944 (iii) With an average yearly membership of more than 500 resident members, \$2,765.
 945 c. Mixed beverage caterer's license, \$1,860;
 946 d. Mixed beverage limited caterer's license, \$500;
 947 e. Mixed beverage special events license, \$45 for each day of each event;
 948 f. Mixed beverage club events licenses, \$35 for each day of each event;
 949 g. Annual mixed beverage special events license, \$560;
 950 h. Mixed beverage carrier license:
 951 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the
 952 Commonwealth by a common carrier of passengers by train;
 953 (ii) \$560 for each common carrier of passengers by boat;
 954 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
 955 i. Annual mixed beverage amphitheater license, \$560;
 956 j. Annual mixed beverage motor sports race track license, \$560;
 957 k. Annual mixed beverage banquet license, \$500;
 958 l. Limited mixed beverage restaurant license:
 959 (i) With a seating capacity at tables for up to 100 persons, \$460;
 960 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
 961 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
 962 m. Annual mixed beverage motor sports facility license, \$560; ~~and~~
 963 n. Annual mixed beverage performing arts facility license, \$560; *and*
 964 *o. Mixed beverage casino license granted to persons operating a casino gaming establishment*
 965 *licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, \$1 per gaming station.*
 966 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax
 967 imposed by this section on the license for which the applicant applied.
 968 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be
 969 subject to proration to the following extent: If the license is granted in the second quarter of any year,
 970 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be
 971 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by
 972 three-fourths.
 973 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000
 974 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license
 975 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the
 976 number of gallons permitted to be manufactured shall be prorated in the same manner.
 977 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000
 978 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or
 979 winery license, such person shall pay for such unlimited license a license tax equal to the amount that
 980 would have been charged had such license been applied for at the time that the license to manufacture
 981 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person

shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

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

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

§ 4.1-233. Taxes on local licenses.

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

1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

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

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

d. Museum license, \$10;

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

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

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

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

j. Canal boat operator license, \$20;

k. Annual arts venue event license, \$20; and

l. Art instruction studio license, \$20.

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

b. Bottler's license, \$500;

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

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

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

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

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.

1043 5. Mixed beverages. — For each:

1044 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated

1045 by hotels or motels, or other persons:

1046 (i) With a seating capacity at tables for up to 100 persons, \$200;

1047 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

1048 (iii) With a seating capacity at tables for more than 150 persons, \$500.

1049 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

1050 c. Mixed beverage caterer's license, \$500;

1051 d. Mixed beverage limited caterer's license, \$100;

1052 e. Mixed beverage special events licenses, \$10 for each day of each event;

1053 f. Mixed beverage club events licenses, \$10 for each day of each event;

1054 g. Annual mixed beverage amphitheater license, \$300;

1055 h. Annual mixed beverage motor sports race track license, \$300;

1056 i. Annual mixed beverage banquet license, \$75;

1057 j. Limited mixed beverage restaurant license:

1058 (i) With a seating capacity at tables for up to 100 persons, \$100;

1059 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

1060 (iii) With a seating capacity at tables for more than 150 persons, \$400;

1061 k. Annual mixed beverage motor sports facility license, \$300; and

1062 l. Annual mixed beverage performing arts facility license, \$300; and

1063 m. *Mixed beverage casino license granted to persons operating a casino gaming establishment*

1064 *licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, \$1 per gaming station.*

1065 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of

1066 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the

1067 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises

1068 consumption only.

1069 C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in

1070 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local

1071 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,

1072 may include alcoholic beverages in the base for measuring such local license taxes the same as if the

1073 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter

1074 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local

1075 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license

1076 taxes authorized by this chapter.

1077 The governing body of any county, city or town, in adopting an ordinance under this section, shall

1078 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation

1079 under the ordinance, and in computing the local wholesale merchants' license tax on such beer

1080 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be

1081 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license

1082 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine

1083 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale

1084 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall

1085 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary

1086 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax

1087 paid by such wholesale wine licensee.

1088 D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on

1089 any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such

1090 wholesaler maintains no place of business in such county, city or town.

1091 E. Application of county tax within town. — Any county license tax imposed under this section shall

1092 not apply within the limits of any town located in such county, where such town now, or hereafter,

1093 imposes a town license tax on the same privilege.

1094 **§ 11-16.1. Exemption from the chapter.**

1095 *This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41*

1096 *(§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, and transaction arising from conduct*

1097 *lawful thereunder.*

1098 **§ 18.2-334.5. Exemptions to article; certain gaming operations.**

1099 *Nothing in this article shall be construed to make it illegal to participate in any casino gaming*

1100 *operation conducted in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.*

1101 **§ 33.2-1532. Toll Mitigation Fund.**

1102 *There is hereby created in the state treasury a special nonreverting fund to be known as the Toll*

1103 *Mitigation Fund, referred to in this section as "the Fund." The Fund shall be established on the books*

1104 *of the Comptroller. All moneys required to be deposited into the Fund pursuant to Chapter 41*

(§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of mitigating the tolls established to support construction and maintenance for (i) the Dominion Boulevard Bridge and Roadway Improvement Project and (ii) the Downtown Tunnel/Midtown Tunnel/Martin Luther King Freeway Extension Project. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Transportation.

At such time as all outstanding bonds for the Dominion Boulevard Bridge and Roadway Improvement Project and the Downtown Tunnel/Midtown Tunnel/Martin Luther King Freeway Extension Project have been paid and no further bonds or obligations are issued for those projects, the money shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524.

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or deaths of individuals receiving services in facilities within 15 working days of the critical incident or death.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem Gambling Treatment and Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be

established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

CHAPTER 41.
CASINO GAMING.
Article 1.
General Provisions.

§ 58.1-4100. 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.

"Board" means the Virginia Lottery Board established in the Virginia Lottery Law (§ 58.1-4000 et seq.)

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab and any other activity that is authorized by the Board as a wagering game or device under this chapter.

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

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

"Director" means the Director of the Virginia Lottery.

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

"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" means any person holding an operator's license under § 58.1-4111.

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

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

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

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

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

"Voluntary exclusion program" means a program established by the Board that allows individuals to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4101. Regulation and control of casino gaming.

A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the Commonwealth. The Board 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 any casino gaming establishment and entrance to such establishment is a privilege

that may be granted or denied by the Board or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter. Any proposed site for a casino gaming establishment shall be privately owned property subject to the local land use and property taxation authority of the locality in which the casino gaming establishment is located. In addition, at least 50 percent of the employees of the casino gaming establishment shall be residents of the locality in which the casino gaming establishment is located.

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

§ 58.1-4102. Powers and duties of the Board.

A. The Board shall have the power and duty to:

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

2. Adopt regulations regarding the 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.

3. Issue an operator's license only to a person who meets the criteria of § 58.1-4111.

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

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

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

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

8. Order such audits, in addition to those required by § 58.1-4104, as it deems necessary and desirable.

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

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

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

§ 58.1-4103. Voluntary exclusion program.

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program in the state.

B. The regulations shall include the following provisions:

1. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion program agrees to refrain from entering a casino gaming establishment or other facility under the jurisdiction of the Board.

2. The name of an individual participating in the program shall be included on a list of individuals excluded from all casino gaming establishments or other facilities under the jurisdiction of the Board.

3. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion program may not petition the Board for readmittance to any casino gaming establishment or other facility under the jurisdiction of the Board.

1289 4. The list of participants in the voluntary exclusion program and the personal information of the
1290 participants shall be confidential with dissemination by the Board limited to the owner or operator of a
1291 casino gaming establishment for purposes of enforcement and to other entities, upon request by the
1292 participant and agreement by the Board.

1293 5. The operator of a casino gaming establishment shall make all reasonable attempts as determined
1294 by the Board to cease all direct marketing efforts to an individual participating in the program. An
1295 individual's participation in the voluntary exclusion program shall not preclude an operator from
1296 seeking the payment of a debt accrued by such individual prior to entering the program.

1297 **§ 58.1-4104. Audit required.**

1298 A regular post-audit shall be conducted of all accounts and transactions of the Board. An annual
1299 audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be
1300 conducted by the Auditor of Public Accounts on or before September 30 of each year. The cost of the
1301 annual audit and post-audit examinations shall be borne by the Board.

1302 **§ 58.1-4105. Fingerprints and background investigations.**

1303 The Board shall require a background investigation, including a criminal history records check and
1304 fingerprints, of the following individuals by a representative of an appropriate law-enforcement agency
1305 of the Commonwealth or federal government: (i) every individual applying for a license or permit
1306 pursuant to this chapter; (ii) every individual who is an officer, director, or principal of a licensee or
1307 applicant for a license and every employee of the licensee who conducts gaming operations; (iii) all
1308 security personnel of any licensee; (iv) employees of the Board; (v) all permit holders and officers,
1309 directors, principals, and employees of permit holders whose duties relate to gaming operations in
1310 Virginia; and (vi) any other individual who the Board determines actively participates in the casino
1311 gaming activities of any licensee or permit holder or applicant for a license or permit.

1312 **§ 58.1-4106. Hearing and appeal.**

1313 Any person aggrieved by a refusal of the Board to issue any license or permit, the suspension or
1314 revocation of a license or permit, the imposition of a fine, or any other action of the Board may seek
1315 review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act
1316 in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5
1317 of the Administrative Process Act.

1318 **§ 58.1-4107. Injunction.**

1319 Whenever it appears to the Board that any person has violated or may violate any provision of this
1320 chapter or any regulation or final decision of the Board, it may apply to the appropriate circuit court
1321 for an injunction against such person. The order granting or refusing such injunction shall be subject to
1322 appeal as in other cases in equity.

1323 **§ 58.1-4108. Casino Gaming Operations Fund.**

1324 There is hereby created in the state treasury a special nonreverting fund to be known as the Casino
1325 Gaming Operations Fund, referred to in this section as "the Fund." The Fund shall be established on
1326 the books of the Comptroller. All revenues received by the Board under this chapter for deposit into the
1327 Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
1328 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
1329 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
1330 the Fund. Moneys in the Fund shall be used by the Board to fund its operations as it relates to the
1331 administration and regulation of casino gaming pursuant to this chapter. Expenditures and
1332 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
1333 Comptroller upon written request signed by the Director.

1334 Article 2.

1335 Licenses.

1336 **§ 58.1-4109. Operator's license required; license not transferable.**

1337 A. No person shall operate a gaming operation unless he has obtained an operator's license issued
1338 by the Board in accordance with the provisions of this chapter.

1339 B. No license issued under the provisions of this chapter shall be transferable.

1340 **§ 58.1-4110. Application for operator's license; penalty.**

1341 A. Any person desiring to operate a gaming operation shall file with the Board an application for an
1342 operator's license. Such application shall be filed at the place prescribed by the Board and shall be in
1343 such form and contain such information as prescribed by the Board, including but not limited to the
1344 following:

1345 1. The name and address of such person; if a corporation, the state of its incorporation, the full
1346 name and address of each officer and director thereof, and, if a foreign corporation, whether it is
1347 qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address
1348 of each general partner thereof; if a limited liability company, the name and address of each manager
1349 thereof; or if another entity, the name and address of each person performing duties similar to those of
1350 officers, directors, and general partners;

2. The name and address of each principal and of each person who has contracted to become a principal in the applicant, including providing management services with respect to any part of 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 Board 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 and the county or city where such casino gaming establishment will be located. The Board shall require such information about a casino gaming establishment and its location as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter and whether 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 Board considers appropriate;

6. If any of the facilities necessary for the conduct of 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, including certification that the project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2; and

8. Any other information that the Board in its discretion considers appropriate.

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

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

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

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

§ 58.1-4111. Issuance of operator's license.

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

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

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

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

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

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

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

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

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

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

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

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

1412 4. Has knowingly made a false statement of material fact to the Board or has deliberately failed to
1413 disclose any information requested by the Board;

1414 5. Has defaulted in the payment of any obligation or debt due to the Commonwealth and has not
1415 cured such default; or

1416 6. Has operated or caused to be operated a casino gaming establishment for which a license is
1417 required under this chapter without obtaining such license.

1418 C. No operator shall be granted more than one license, and no principal of a licensee shall at the
1419 same time be a principal of any other licensee.

1420 **§ 58.1-4112. Duration and form of operator's license; bond.**

1421 A. A license issued under this chapter shall be for the period set by the Board, which shall be no
1422 less than 10 years, but shall be reviewed no less frequently than annually to determine compliance with
1423 this chapter and Board regulations. The Board shall establish criteria and procedures for license
1424 renewal and for amending licenses to conform to changes in a licensee's operations. Renewal shall not
1425 be unreasonably refused.

1426 B. The Board shall require a bond with surety acceptable to it, and in an amount determined by it,
1427 to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

1428 **§ 58.1-4113. Records to be kept; reports.**

1429 A. A licensed operator shall keep his books and records so as to show clearly the following:

1430 1. The amount received daily from admission fees;

1431 2. The total amount of gross receipts; and

1432 3. The total amount of adjusted gross receipts.

1433 B. The licensed operator shall furnish to the Board reports and information as the Board may
1434 require with respect to its activities on forms designated and supplied for such purpose by the Board.

1435 C. The books and records required under this section to be kept by a licensed operator are public
1436 records and the examination, publication, and dissemination of the books and records are governed by
1437 the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

1438 **§ 58.1-4114. Audit of licensed operations.**

1439 Within 90 days after the end of each year, the licensed operator shall transmit to the Board an audit
1440 of the financial transactions and condition of the licensee's total operations. All audits required by this
1441 section shall conform to Board regulations.

1442 Article 3.

1443 Supplier's Permits.

1444 **§ 58.1-4115. Supplier's permits; penalty.**

1445 A. The Board may issue a supplier's permit to persons upon application therefor and the payment of
1446 a nonrefundable application fee set by the Board, upon a determination by the Board that the applicant
1447 is eligible for a supplier's permit and upon payment of a \$5,000 initial permit fee. A supplier's permit
1448 must be renewed annually at a fee to be determined by the Board, not to exceed \$5,000, and is not
1449 transferable.

1450 B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming
1451 equipment and supplies, or provide management services, to any licensee involved in the ownership or
1452 management of gaming operations to the extent provided in the permit.

1453 C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices,
1454 and supplies conform to standards adopted by the Board.

1455 D. A person is ineligible to receive a supplier's permit if:

1456 1. The person has been convicted of a felony under the laws of the Commonwealth or any other state
1457 or of the United States;

1458 2. The person has submitted an application for a license under this chapter that contains false
1459 information;

1460 3. The person is a member or employee of the Board;

1461 4. The person is an entity in which a person defined in subdivision 1, 2, or 3 is an officer, director,
1462 principal, or managerial employee;

1463 5. The firm or corporation employs a person who participates in the management or operation of
1464 casino gaming authorized under this chapter; or

1465 6. The permit issued to such person under this chapter, or a license or permit to own or operate
1466 casino gaming facilities or supply goods or services to a gaming operation in any other jurisdiction, has
1467 been revoked.

1468 E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming
1469 operation or manages any operation, including a computerized network, of a casino gaming
1470 establishment shall first obtain a supplier's permit. A supplier shall furnish to the Board a list of all
1471 management services, equipment, devices, and supplies offered for sale or lease in connection with the
1472 games authorized under this chapter. A supplier shall keep books and records for the furnishing of
1473 casino gaming 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 Board listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that 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 casino gaming equipment, devices, and supplies at such locations as may be approved by the Board 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 Board 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 casino gaming equipment, devices, and supplies related to its operations in Virginia.

F. Any person who knowingly makes a false statement on an application for a supplier's permit is guilty of a Class 4 felony.

§ 58.1-4116. Denial of permit final.

The denial of a supplier's permit by the Board shall be final unless appealed under § 58.1-4106, and a permit may not be applied for again for a period of five years from the date of denial without the permission of the Board.

Article 4.

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

§ 58.1-4117. Suspension or revocation of license or permit.

After a hearing, with 15 days' notice, the Board 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 Board, has not been complied with or has been violated. The Board 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 Board 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 Board shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 58.1-4106. Suspension or revocation of a license or permit by the Board for any violation shall not preclude criminal liability for such violation.

§ 58.1-4118. Acquisition of interest in licensee or permit holder.

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

Article 5.

Service Permits.

§ 58.1-4119. Service permit required.

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

§ 58.1-4120. Application for service permit.

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

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

§ 58.1-4121. Consideration of application.

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

B. The Board shall deny the application and refuse to issue the service permit, which denial shall be final unless an appeal is taken under § 58.1-4106, if it finds that the issuance of such service permit to such applicant would not be in the best interests of the Commonwealth or would reflect on the honesty

1535 *and integrity of casino gaming in the Commonwealth or that the applicant:*

1536 1. *Has knowingly made a false statement of a material fact in the application or has deliberately*
1537 *failed to disclose any information requested by the Board;*

1538 2. *Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with gaming*
1539 *operations in this or any other state;*

1540 3. *Has knowingly failed to comply with the provisions of this chapter or the regulations of the*
1541 *Board;*

1542 4. *Has had a service permit to engage in activity related to casino gaming denied for cause,*
1543 *suspended, or revoked in this or any other state, and such denial, suspension, or revocation is still in*
1544 *effect;*

1545 5. *Is unqualified to perform the duties required for the service permit sought; or*

1546 6. *Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering,*
1547 *fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery,*
1548 *embezzlement, administration or possession of drugs, or any crime considered by the Board to be*
1549 *detrimental to casino gaming in the Commonwealth.*

1550 C. *The Board may refuse to issue a service permit if for any reason it feels the granting of such*
1551 *service permit is not consistent with the provisions of this chapter or its responsibilities or any*
1552 *regulations promulgated by any other agency of the Commonwealth.*

1553 **§ 58.1-4122. Suspension or revocation of service permit; civil penalty.**

1554 *The Board may suspend or revoke a service permit issued under this chapter or assess a civil*
1555 *penalty against the holder of such permit in a sum not to exceed \$10,000, after a hearing for which*
1556 *proper notice has been given to the permit holder, in any case where it has reason to believe that any*
1557 *provision of this chapter or any regulation, order, or condition of the Board has not been complied with*
1558 *or has been violated. The Board may revoke or suspend such service permit, after such hearing, if it*
1559 *finds that facts not known by it at the time it was considering the application indicate that such permit*
1560 *should not have been issued. If any service permit is suspended or revoked, the Board shall state its*
1561 *reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is*
1562 *taken in accordance with § 58.1-4106. Suspension or revocation of a service permit by the Board for*
1563 *any violation shall not preclude criminal liability for such violation.*

1564 *Article 6.*

1565 *Conduct of Casino Gaming.*

1566 **§ 58.1-4123. Conduct of casino gaming.**

1567 A. *Casino gaming may be conducted by licensed operators, subject to the following standards:*

1568 1. *Minimum and maximum wagers on games shall be set by the licensee.*

1569 2. *Agents of the Board, the Department of State Police, and the local police and fire departments*
1570 *may enter any casino gaming establishment and inspect such facility at any time for the purpose of*
1571 *determining compliance with this chapter.*

1572 3. *Employees of the Board shall have the right to be present in any facilities under the control of the*
1573 *licensee.*

1574 4. *Gaming equipment and supplies customarily used in conducting casino gaming shall be purchased*
1575 *or leased only from suppliers holding permits for such purpose under this chapter.*

1576 5. *Persons licensed under this chapter shall permit no form of wagering on games except as*
1577 *permitted by this chapter.*

1578 6. *Wagers may be received only from a person present at the licensed casino gaming establishment.*
1579 *No person present at such facility shall place or attempt to place a wager on behalf of another person*
1580 *who is not present at the facility.*

1581 7. *No person under age 21 shall be permitted to be present where casino gaming is being conducted.*
1582 *No person under age 21 shall be permitted to make a wager under this chapter.*

1583 8. *Casino gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased*
1584 *from a licensed casino gaming operator. Such tokens, chips, or electronic cards may be used only for*
1585 *the purpose of making wagers on games.*

1586 9. *No licensee or permit holder shall accept postdated checks in payment for participation in any*
1587 *gaming operation. No licensee or permit holder, or any person on the premises of a casino gaming*
1588 *establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in*
1589 *payment for participation in any gaming operation.*

1590 B. *Casino gaming shall be conducted in accordance with all Board regulations.*

1591 *Article 7.*

1592 *Local Referendum.*

1593 **§ 58.1-4124. Local referendum required.**

1594 *The Board shall not grant any initial license to operate a casino gaming operation until a*
1595 *referendum approving the question is held in each county, city, or town in which such casino gaming*
1596 *operation is to be located, in the following manner:*

1. A petition signed by not less than five percent of the qualified voters of such county, city, or town shall be filed with the circuit court of such county, city, or town asking that a referendum be held on the question, "Shall casino gaming be permitted at a casino gaming establishment in (name of such county, city, or town) as may be approved by the Virginia Lottery Board in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 of the Code of Virginia?"

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

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

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

"Shall casino gaming be permitted at a casino gaming establishment in (name of county, city, or town) as may be approved by the Virginia Lottery Board

_____ Yes

_____ No"

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

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

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

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

Article 8.

Taxation and Audit.

§ 58.1-4125. Wagering tax; rate; distribution.

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

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

1. Eighty-nine percent shall be paid to the Toll Mitigation Fund established under § 33.2-1532.

2. Ten percent shall be paid to the State Local Casino Gaming Proceeds Fund established pursuant to § 58.1-4128.

3. One percent shall be paid to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

§ 58.1-4126. Admission tax; fees; distribution.

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

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

2. The 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.

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

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

1. Ninety percent shall be paid to the Toll Mitigation Fund established under § 33.2-1532.

2. Ten percent shall be paid to the State Local Casino Gaming Proceeds Fund established pursuant to § 58.1-4128.

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

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

§ 58.1-4127. Operations of the Board.

From the amounts to be deposited to the Toll Mitigation Fund pursuant to this chapter, the Comptroller shall, on a monthly basis, deposit one-twelfth of the amount provided in the general appropriation act for the operation and administration of the Board into the Casino Gaming Operations Fund established pursuant to § 58.1-4108.

§ 58.1-4128. State Local Casino Gaming Proceeds Fund.

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

1. For adjusted gross receipts tax established pursuant to § 58.1-4125, payments shall be made to each locality in which casino gaming establishments are located in proportion to the quarterly adjusted gross receipts tax by the Comptroller no later than the twentieth day of the month immediately following the end of the calendar quarter. To facilitate such payments, the Board shall provide a written certificate to the Comptroller reporting the most recent quarterly adjusted gross receipts generated in each locality not later than the tenth day of the month immediately following the end of the calendar quarter.

2. For the admission tax established pursuant to § 58.1-4126, payments shall be made to the locality in which the admission tax was collected. Such payment shall be paid quarterly by the Commonwealth to the treasurer of such locality.

Article 9.

Prohibited Acts; Penalties.

§ 58.1-4129. 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 Board.

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 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 Board 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 gaming operation, including, but not limited to, an officer or employee of a licensed operator or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board or a local governing body.

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

a. Projecting the outcome of a game;

b. Keeping track of the cards played;

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

d. Analyzing the strategy for playing or betting to be used in a game except as permitted by the Board.

6. Cheat at gaming.

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

8. Alter or misrepresent the outcome of a game on which wagers have been made after the outcome

is made sure but before it is revealed to the players.

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

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

11. Use counterfeit chips or tokens in a game.

12. Possess any key or device designed for the purpose of opening, entering, or affecting the operation of a game, drop box, or electronic or mechanical device connected with the game or for removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino gaming licensee or employee of a casino 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 is guilty of a Class 6 felony. In addition, any person convicted of a violation of subsection A shall be barred for life from gaming operations under the jurisdiction of the Board.

§ 58.1-4130. 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 Board, or any person who has in his possession any forged or simulated credential, license, or permit of the Board, and who uses such credential, license, or permit for the purposes of misrepresentation, fraud, or touting is guilty of a Class 4 felony.

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

§ 58.1-4131. 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 is a Class 1 misdemeanor.

§ 58.1-4132. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates, or combines with another, either within or outside the Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 4 felony.

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

§ 58.1-4133. 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 assessed by the Board 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 casino gaming equipment, devices, and supplies used in the conduct of unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

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 665 of the Acts of Assembly of 2015 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.