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**SENATE BILL NO. 1011**

Offered January 11, 2017

Prefiled January 4, 2017

*A BILL to amend and reenact §§ 2.2-204, 2.2-3705.3, 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 59.1 a chapter numbered 52, containing articles numbered 1 through 9, consisting of sections numbered 59.1-571 through 59.1-608, relating to regulation of casino gaming; Virginia Casino Gaming Commission; penalties.*

Patrons—Lucas and Locke; Delegate: Tyler

Referred to Committee on General Laws and Technology

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-204, 2.2-3705.3, 2.2-3711, 4.1-100, 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 59.1 a chapter numbered 52, containing articles numbered 1 through 9, consisting of sections numbered 59.1-571 through 59.1-608, as follows:**

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

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

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

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. (Effective until July 1, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the Virginia Lottery, the Virginia Racing Commission, *the Virginia Casino Gaming Commission*, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

1. (Effective July 1, 2018) Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Virginia Racing Commission, *the Virginia Casino Gaming Commission*, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect

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59 to an active investigation of individual employment discrimination complaints made to the Department  
60 of Human Resource Management, to such personnel of any local public body, including local school  
61 boards, as are responsible for conducting such investigations in confidence, or to any public institution  
62 of higher education. Information contained in inactive reports shall be disclosed in a form that does not  
63 reveal the identity of charging parties, persons supplying the information, or other individuals involved  
64 in the investigation.

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

67 5. Investigative notes and other correspondence and information furnished in confidence with respect  
68 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under  
69 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance  
70 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,  
71 1987, in accordance with applicable law, relating to local human rights or human relations commissions.  
72 Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of  
73 the parties involved or other persons supplying information.

74 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii)  
75 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or  
76 regulations that cause abuses in the administration and operation of the lottery and any evasions of such  
77 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where  
78 such information has not been publicly released, published or copyrighted. All studies and investigations  
79 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of  
80 the study or investigation.

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

99 8. Information furnished in confidence to the Department of Human Resource Management with  
100 respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda,  
101 correspondence and other records resulting from any such investigation, consultation or mediation.  
102 Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of  
103 the parties involved or other persons supplying information.

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

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

111 11. Information furnished to or prepared by the Board of Education pursuant to subsection D of  
112 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,  
113 unauthorized alteration, or improper administration of tests by local school board employees responsible  
114 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure  
115 of such information to (i) a local school board or division superintendent for the purpose of permitting  
116 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)  
117 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the  
118 identity of any person making a complaint or supplying information to the Board on a confidential basis  
119 and (b) does not compromise the security of any test mandated by the Board.

120 12. Information contained in (i) an application for licensure or renewal of a license for teachers and

other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

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

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, 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 exclusion 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 7 (§ 23.1-700 et seq.) of Title 23.1 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 information 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

305 the public body.

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

310 31. Discussion or consideration by the Commitment Review Committee of information excluded from  
311 this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as  
312 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

313 32. [Expired.]

314 33. Discussion or consideration of confidential proprietary information and trade secrets excluded  
315 from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
316 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
317 seq.).

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

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

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

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

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

333 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
334 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
335 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
336 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment  
337 Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter  
338 pursuant to subdivision 25 of § 2.2-3705.7.

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

341 41. Discussion or consideration by the Board of Education of information relating to the denial,  
342 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of  
343 § 2.2-3705.3.

344 42. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
345 by executive order for the purpose of studying and making recommendations regarding preventing  
346 closure or realignment of federal military and national security installations and facilities located in  
347 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
348 appointed by a local governing body, during which there is discussion of information excluded from this  
349 chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

356 46. Discussion or consideration of personal and proprietary information that are excluded from the  
357 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of  
358 § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain  
359 information that has been certified for release by the person who is the subject of the information or  
360 transformed into a statistical or aggregate form that does not allow identification of the person who  
361 supplied, or is the subject of, the information.

362 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia  
363 Alcoholic Beverage Control Authority of information excluded from this chapter pursuant to subdivision  
364 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

365 48. Discussion or consideration of grant or loan application records excluded from this chapter  
366 pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from

the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

49. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

*50. Deliberations of the Virginia Casino Gaming Commission in a licensing appeal action conducted pursuant to § 59.1-580 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

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

**§ 4.1-100. (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

428 percent or more of alcohol by volume.

429 "Board" means the Virginia Alcoholic Beverage Control Board.

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

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

435 "*Casino gaming*" means *baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette*  
436 *wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull*  
437 *tab and any other activity that is authorized by the Virginia Casino Gaming Commission as a wagering*  
438 *game or device under Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

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

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

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

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

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

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

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

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

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

473 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
474 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
475 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
476 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
477 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
478 grapes or other fruits from agricultural growers within the Commonwealth and with facilities for  
479 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
480 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
481 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
482 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
483 manufactured by the institution shall be stored on the premises of such farm winery that shall be  
484 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
485 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
486 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
487 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
488 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
489 individual members of the cooperative as long as such land is located in the Commonwealth. For



purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,

551 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives  
552 which are not commonly consumed unless combined with alcoholic beverages, whether or not such  
553 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a  
554 Virginia corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

611 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and  
612 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 Casino Gaming Commission as a wagering game or device under Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being

674 conducted while such gaming is being conducted and that no alcoholic beverages are made available  
675 upon the premises to any person who is neither a member nor a bona fide guest of a member.

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

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

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

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

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

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

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

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

701 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
702 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
703 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
704 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
705 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
706 grapes or other fruits from agricultural growers within the Commonwealth and with facilities for  
707 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
708 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
709 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
710 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
711 manufactured by the institution shall be stored on the premises of such farm winery that shall be  
712 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
713 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
714 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
715 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
716 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
717 individual members of the cooperative as long as such land is located in the Commonwealth. For  
718 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or  
719 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this  
720 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for  
721 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned  
722 agricultural" shall otherwise limit or affect local zoning authority.

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

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

734 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage  
735 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 Authority 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 granted by the Authority.

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

"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.

"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

920 or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the  
921 Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms  
922 of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its  
923 airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air  
924 carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes  
925 and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits  
926 will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier  
927 licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits  
928 may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and  
929 any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported,  
930 stored, and delivered by its authorized representative.

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

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

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

948 10. Annual mixed beverage motor sports facility license to persons operating food concessions at any  
949 outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,  
950 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed  
951 beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events  
952 or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing  
953 areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization  
954 of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the  
955 premises in all areas and locations covered by the license.

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

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

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

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

980 15. Annual mixed beverage performing arts facility license to persons operating food concessions at  
981 any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the



performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

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

18. *Mixed beverage casino licenses to persons operating a casino gaming operation licensed by the Virginia Casino Gaming Commission pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Commission on the premises of the casino gaming establishment designated in the license.*

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, ~~or~~ 17, or 18 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

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

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

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

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

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

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

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

f. Equine sporting event license, \$130;

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

h. Day spa license, \$100;

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

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

k. Canal boat operator license, \$100;

l. Annual arts venue event license, \$100; and

m. Art instruction studio license, \$100.

2. Wine licenses. For each:

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

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

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

- 1043 c. Wine importer's license, \$370;
- 1044 d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- 1045 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of
- 1046 which shall include a delivery permit;
- 1047 f. Wine shipper's license, \$95; and
- 1048 g. Internet wine retailer license, \$150.
- 1049 3. Beer licenses. For each:
- 1050 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
- 1051 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which
- 1052 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
- 1053 b. Bottler's license, \$1,430;
- 1054 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or
- 1055 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of
- 1056 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
- 1057 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be
- 1058 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the
- 1059 license;
- 1060 d. Beer importer's license, \$370;
- 1061 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common
- 1062 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by
- 1063 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club
- 1064 cars operated daily in the Commonwealth;
- 1065 f. Retail off-premises beer license, \$120, which shall include a delivery permit;
- 1066 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a
- 1067 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a
- 1068 delivery permit;
- 1069 h. Beer shipper's license, \$95; and
- 1070 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 1071 4. Wine and beer licenses. For each:
- 1072 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
- 1073 common carrier of passengers by train, boat or airplane, \$300; for each such license to a common
- 1074 carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining
- 1075 cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to
- 1076 a common carrier of passengers by airplane, \$750;
- 1077 b. Retail on-premises wine and beer license to a hospital, \$145;
- 1078 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience
- 1079 grocery store license, \$230, which shall include a delivery permit;
- 1080 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall
- 1081 include a delivery permit;
- 1082 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the
- 1083 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be
- 1084 \$100 per license;
- 1085 f. Gourmet brewing shop license, \$230;
- 1086 g. Wine and beer shipper's license, \$95;
- 1087 h. Annual banquet license, \$150;
- 1088 i. Fulfillment warehouse license, \$120;
- 1089 j. Marketing portal license, \$150; and
- 1090 k. Gourmet oyster house license, \$230; and
- 1091 l. *Mixed beverage casino license granted to persons operating a casino gaming establishment*
- 1092 *licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, \$2 per gaming station.*
- 1093 5. Mixed beverage licenses. For each:
- 1094 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants
- 1095 located on premises of and operated by hotels or motels, or other persons:
- 1096 (i) With a seating capacity at tables for up to 100 persons, \$560;
- 1097 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- 1098 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
- 1099 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by
- 1100 private, nonprofit clubs:
- 1101 (i) With an average yearly membership of not more than 200 resident members, \$750;
- 1102 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
- 1103 \$1,860; and
- 1104 (iii) With an average yearly membership of more than 500 resident members, \$2,765.

- 1105 c. Mixed beverage caterer's license, \$1,860;  
 1106 d. Mixed beverage limited caterer's license, \$500;  
 1107 e. Mixed beverage special events license, \$45 for each day of each event;  
 1108 f. Mixed beverage club events licenses, \$35 for each day of each event;  
 1109 g. Annual mixed beverage special events license, \$560;  
 1110 h. Mixed beverage carrier license:  
 1111 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the  
 1112 Commonwealth by a common carrier of passengers by train;  
 1113 (ii) \$560 for each common carrier of passengers by boat;  
 1114 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.  
 1115 i. Annual mixed beverage amphitheater license, \$560;  
 1116 j. Annual mixed beverage motor sports race track license, \$560;  
 1117 k. Annual mixed beverage banquet license, \$500;  
 1118 l. Limited mixed beverage restaurant license:  
 1119 (i) With a seating capacity at tables for up to 100 persons, \$460;  
 1120 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;  
 1121 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;  
 1122 m. Annual mixed beverage motor sports facility license, \$560; and  
 1123 n. Annual mixed beverage performing arts facility license, \$560; and  
 1124 o. *Mixed beverage casino license granted to persons operating a casino gaming establishment*  
 1125 *licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, \$1 per gaming station.*  
 1126 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
 1127 imposed by this section on the license for which the applicant applied.  
 1128 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be  
 1129 subject to proration to the following extent: If the license is granted in the second quarter of any year,  
 1130 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be  
 1131 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by  
 1132 three-fourths.  
 1133 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000  
 1134 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license  
 1135 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the  
 1136 number of gallons permitted to be manufactured shall be prorated in the same manner.  
 1137 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000  
 1138 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or  
 1139 winery license, such person shall pay for such unlimited license a license tax equal to the amount that  
 1140 would have been charged had such license been applied for at the time that the license to manufacture  
 1141 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
 1142 shall be entitled to a refund of the amount of license tax previously paid on the limited license.  
 1143 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,  
 1144 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
 1145 nearest cent, multiplied by the number of months in the license period, and then increased by five  
 1146 percent. Such tax shall not be refundable, except as provided in § 4.1-232.  
 1147 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
 1148 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
 1149 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
 1150 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
 1151 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license  
 1152 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining  
 1153 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the  
 1154 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases  
 1155 shall be disregarded.  
 1156 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license  
 1157 purchased in person from the Board if such license is available for purchase online.  
 1158 **§ 4.1-233. Taxes on local licenses.**  
 1159 A. In addition to the state license taxes, the annual local license taxes which may be collected shall  
 1160 not exceed the following sums:  
 1161 1. Alcoholic beverages. — For each:  
 1162 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured  
 1163 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no  
 1164 local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol  
 1165 or spirits, or both, during such license year;

- 1166 b. Fruit distiller's license, \$1,500;
- 1167 c. Bed and breakfast establishment license, \$40;
- 1168 d. Museum license, \$10;
- 1169 e. Tasting license, \$5 per license granted;
- 1170 f. Equine sporting event license, \$10;
- 1171 g. Day spa license, \$20;
- 1172 h. Motor car sporting event facility license, \$10;
- 1173 i. Meal-assembly kitchen license, \$20;
- 1174 j. Canal boat operator license, \$20;
- 1175 k. Annual arts venue event license, \$20; and
- 1176 l. Art instruction studio license, \$20.
- 1177 2. Beer. — For each:
- 1178 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the
- 1179 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the
- 1180 license is granted, \$1,000;
- 1181 b. Bottler's license, \$500;
- 1182 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
- 1183 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer
- 1184 license in a city, \$100, and in a county or town, \$25; and
- 1185 e. Beer shipper's license, \$10.
- 1186 3. Wine. — For each:
- 1187 a. Winery license, \$50;
- 1188 b. Wholesale wine license, \$50;
- 1189 c. Farm winery license, \$50; and
- 1190 d. Wine shipper's license, \$10.
- 1191 4. Wine and beer. — For each:
- 1192 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail
- 1193 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery
- 1194 store license, in a city, \$150, and in a county or town, \$37.50;
- 1195 b. Hospital license, \$10;
- 1196 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board
- 1197 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20
- 1198 per license;
- 1199 d. Gourmet brewing shop license, \$150;
- 1200 e. Wine and beer shipper's license, \$10;
- 1201 f. Annual banquet license, \$15; and
- 1202 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
- 1203 5. Mixed beverages. — For each:
- 1204 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated
- 1205 by hotels or motels, or other persons:
- 1206 (i) With a seating capacity at tables for up to 100 persons, \$200;
- 1207 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- 1208 (iii) With a seating capacity at tables for more than 150 persons, \$500.
- 1209 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
- 1210 c. Mixed beverage caterer's license, \$500;
- 1211 d. Mixed beverage limited caterer's license, \$100;
- 1212 e. Mixed beverage special events licenses, \$10 for each day of each event;
- 1213 f. Mixed beverage club events licenses, \$10 for each day of each event;
- 1214 g. Annual mixed beverage amphitheater license, \$300;
- 1215 h. Annual mixed beverage motor sports race track license, \$300;
- 1216 i. Annual mixed beverage banquet license, \$75;
- 1217 j. Limited mixed beverage restaurant license:
- 1218 (i) With a seating capacity at tables for up to 100 persons, \$100;
- 1219 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
- 1220 (iii) With a seating capacity at tables for more than 150 persons, \$400;
- 1221 k. Annual mixed beverage motor sports facility license, \$300; ~~and~~
- 1222 l. Annual mixed beverage performing arts facility license, \$300; ~~and~~
- 1223 *m. Mixed beverage casino license granted to persons operating a casino gaming establishment*
- 1224 *licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, \$1 per gaming station.*
- 1225 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of
- 1226 selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the
- 1227 Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises

consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

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

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

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

*This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 52 (§ 59.1-571 et seq.) of Title 59.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.*

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

*Nothing in this article shall be construed to make it illegal to participate in any casino gaming operation conducted in accordance with Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

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

*There is hereby created in the state treasury a special nonreverting fund to be known as the Toll Mitigation 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 52 (§ 59.1-571 et seq.) of Title 59.1 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

1289 United States government, agencies and instrumentalities thereof, and any other source, subject to the  
1290 approval of the Governor. To these ends, the Commissioner shall have the power to comply with  
1291 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with  
1292 policies and regulations of the Board.

1293 5. To accept, execute, and administer any trust in which the Department may have an interest, under  
1294 the terms of the instruments creating the trust, subject to the approval of the Governor.

1295 6. To transfer between state hospitals and training centers school-age individuals who have been  
1296 identified as appropriate to be placed in public school programs and to negotiate with other school  
1297 divisions for placements in order to ameliorate the impact on those school divisions located in a  
1298 jurisdiction in which a state hospital or training center is located.

1299 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,  
1300 established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or  
1301 deaths of individuals receiving services in facilities within 15 working days of the critical incident or  
1302 death.

1303 8. To work with the appropriate state and federal entities to ensure that any individual who has  
1304 received services in a state facility for more than one year has possession of or receives prior to  
1305 discharge any of the following documents, when they are needed to obtain the services contained in his  
1306 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days  
1307 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a  
1308 social security card from the Social Security Administration. State facility directors, as part of their  
1309 responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

1310 9. To work with the Department of Veterans Services and the Department for Aging and  
1311 Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia  
1312 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces  
1313 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

1314 10. To establish and maintain a pharmaceutical and therapeutics committee composed of  
1315 representatives of the Department of Medical Assistance Services, state facilities operated by the  
1316 Department, community services boards, at least one health insurance plan, and at least one individual  
1317 receiving services to develop a drug formulary for use at all community services boards, state facilities  
1318 operated by the Department, and providers licensed by the Department.

1319 11. To certify individuals as peer providers in accordance with regulations adopted by the Board.

1320 12. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to  
1321 § 37.2-312.2.

1322 13. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and  
1323 the Chairmen of the House Appropriations and Senate Finances Committees that provides information  
1324 on the operation of Virginia's publicly funded behavioral health and developmental services system. The  
1325 report shall include a brief narrative and data on the number of individuals receiving state facility  
1326 services or community services board services, including purchased inpatient psychiatric services; the  
1327 types and amounts of services received by these individuals; and state facility and community services  
1328 board service capacities, staffing, revenues, and expenditures. The annual report shall describe major  
1329 new initiatives implemented during the past year and shall provide information on the accomplishment  
1330 of systemic outcome and performance measures during the year.

1331 14. *To administer the Problem Gambling Treatment and Support Fund established pursuant to*  
1332 *§ 37.2-314.1.*

1333 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the  
1334 Commissioner shall devote his entire time to his duties.

1335 **§ 37.2-314.1. Problem Gambling Treatment and Support Fund.**

1336 *There is hereby created in the state treasury a special nonreverting fund to be known as the Problem*  
1337 *Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be*  
1338 *established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant*  
1339 *to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1 shall be paid into the state treasury and credited to the*  
1340 *Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any*  
1341 *moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert*  
1342 *to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the*  
1343 *purposes of (i) providing counseling and other support services for compulsive and problem gamblers,*  
1344 *(ii) developing and implementing problem gambling treatment and prevention programs, and (iii)*  
1345 *providing grants to supporting organizations that provide assistance to compulsive gamblers.*  
1346 *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued*  
1347 *by the Comptroller upon written request signed by the Commissioner.*

1348 **CHAPTER 52.**

1349 **CASINO GAMING.**

1350 **Article 1.**

## General Provisions.

**§ 59.1-571. 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.*

*"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 Commission 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.*

*"Commission" means the Virginia Casino Gaming Commission created pursuant to § 59.1-573.*

*"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.*

*"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.*

*"Licensee" or "license holder" means any person holding an operator's license under § 59.1-586.*

*"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 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 who manages a gaming operation on behalf of a licensee.*

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

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

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

**§ 59.1-572. Regulation and control of casino gaming; prerequisites for approval.**

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

*B. The conduct of any casino gaming establishment and entrance to such establishment is a privilege that may be granted or denied by the Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter. 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.*

**§ 59.1-573. Virginia Casino Gaming Commission; membership.**

*A. The Virginia Casino Gaming Commission is established and shall consist of five members appointed by the Governor for five-year terms and confirmed by a majority of those elected to each*

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

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

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

**§ 59.1-574. Financial interests of Commission members, employees, and family members prohibited.**

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

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

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

**§ 59.1-575. Powers and duties of the Commission; report.**

A. The Commission 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 Commission 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 Commission 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 Commission, 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 § 59.1-586.

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

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

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



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

8. Order such audits, in addition to those required by § 59.1-578, as it deems necessary and desirable.

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

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

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

**§ 59.1-576. Voluntary exclusion program.**

A. The Commission 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 regulation of the Commission, 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 Commission.

2. The name of a person participating in the program shall be included on a list of persons excluded from all casino gaming establishments or other facilities under the jurisdiction of the Commission.

3. Except as provided by regulation of the Commission, a person who participates in the voluntary exclusion program may not petition the Commission for readmittance to any casino gaming establishment or other facility under the jurisdiction of the Commission.

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

5. The operator of a casino gaming establishment shall make all reasonable attempts as determined by the Commission to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude an operator from seeking the payment of a debt accrued by a person before entering the program.

**§ 59.1-577. Executive Secretary; staff.**

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

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

**§ 59.1-578. Audit required.**

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

**§ 59.1-579. Fingerprints and background investigations.**

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

**§ 59.1-580. Hearing and appeal.**

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

**§ 59.1-581. Injunction.**

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

**§ 59.1-582. Casino Gaming Commission Operations Fund.**

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

**Article 2.**

**Licenses.**

**§ 59.1-583. Operator's license required; license not transferable.**

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

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

**§ 59.1-584. Application for operator's license; penalty.**

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

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

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

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

4. A description of the casino gaming establishment in which such gaming operations are to be conducted and the county or city where such casino gaming establishment will be located. The Commission 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 Commission 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 Commission in its discretion considers appropriate.

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

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

D. The licensed operator shall be the person primarily responsible for the 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.

**§ 59.1-585. Notice to local governing body; local impact.**

A. The Commission shall notify the local governing body of the locality where a proposed casino gaming establishment will be located within 15 days of the filing of the application. Such notification shall be made through the county or city attorney or the chief law-enforcement officer of the locality. Within 90 days of receipt of the notification from the Commission, the local governing body shall submit its basis for supporting or objecting to the granting of a license.

B. The Commission shall consider the support of the local governing body and the compatibility of the applicant's proposed operations with the economic development and land use plans and design review criteria of the local governing body. However, the Commission shall not issue a license unless the locality has certified that the proposed project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

**§ 59.1-586. Issuance of operator's license.**

A. The Commission 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 Executive Secretary of the Commission as their agent for receipt of process;

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

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

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

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

B. The Commission shall deny a license to an applicant if it finds that for any reason the issuance of a license to the applicant would reflect adversely on the honesty and integrity of the 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 Commission 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 Commission regulation;

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

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

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

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

**§ 59.1-587. Duration and form of operator's license; bond.**

A. A license issued under this chapter shall be for the period set by the Commission, which shall be no less than 10 years, but shall be reviewed no less frequently than annually to determine compliance with this chapter and Commission regulations. The Commission shall establish criteria and procedures

1658 for license renewal and for amending licenses to conform to changes in a licensee's gaming operations.  
1659 Renewal shall not be unreasonably refused.

1660 B. The Commission shall require a bond with surety acceptable to it, and in an amount determined  
1661 by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

1662 **§ 59.1-588. Records to be kept; reports.**

1663 A. A licensed operator shall keep his books and records so as to show clearly the following:

1664 1. The amount received daily from admission fees;

1665 2. The total amount of gross receipts; and

1666 3. The total amount of adjusted gross receipts.

1667 B. The licensed operator shall furnish to the Commission reports and information as the Commission  
1668 may require with respect to its activities on forms designated and supplied for such purpose by the  
1669 Commission.

1670 C. The books and records required under this section to be kept by a licensed operator are public  
1671 records and the examination, publication, and dissemination of the books and records are governed by  
1672 the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

1673 **§ 59.1-589. Audit of licensed gaming operations.**

1674 Within 90 days after the end of each year, the licensed operator shall transmit to the Commission an  
1675 audit of the financial transactions and condition of the licensee's total operations. All audits required by  
1676 this section shall conform to Commission regulations.

1677 **Article 3.**

1678 **Supplier's Permits.**

1679 **§ 59.1-590. Supplier's permits; penalty.**

1680 A. The Commission may issue a supplier's permit to persons upon application therefor and the  
1681 payment of a nonrefundable application fee set by the Commission, upon a determination by the  
1682 Commission that the applicant is eligible for a supplier's permit and upon payment of a \$5,000 initial  
1683 permit fee. A supplier's permit must be renewed annually at a fee to be determined by the Commission,  
1684 not to exceed \$5,000, and is not transferable.

1685 B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming  
1686 equipment and supplies, or provide management services, to any licensee involved in the ownership or  
1687 management of gaming operations to the extent provided in the permit.

1688 C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices,  
1689 and supplies conform to standards adopted by the Commission.

1690 D. A person is ineligible to receive a supplier's permit if:

1691 1. The person has been convicted of a felony under the laws of the Commonwealth or any other state  
1692 or of the United States;

1693 2. The person has submitted an application for a license under this chapter that contains false  
1694 information;

1695 3. The person is a member or employee of the Commission;

1696 4. The person is an entity in which a person defined in subdivision 1, 2, or 3 is an officer, director,  
1697 principal, or managerial employee;

1698 5. The firm or corporation employs a person who participates in the management or operation of  
1699 casino gaming authorized under this chapter; or

1700 6. The permit issued to such person under this chapter, or a license or permit to own or operate  
1701 casino gaming facilities or supply goods or services to a gaming operation in any other jurisdiction, has  
1702 been revoked.

1703 E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming  
1704 operation or manages any operation, including a computerized network, of a casino gaming  
1705 establishment shall first obtain a supplier's permit. A supplier shall furnish to the Commission a list of  
1706 all management services, equipment, devices, and supplies offered for sale or lease in connection with  
1707 the games authorized under this chapter. A supplier shall keep books and records for the furnishing of  
1708 casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any  
1709 other business that the supplier might operate. A supplier shall file a quarterly return with the  
1710 Commission listing all sales and leases for which a permit is required. A supplier shall permanently  
1711 affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's  
1712 equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall  
1713 be forfeited to the Commonwealth.

1714 F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino  
1715 gaming equipment, devices, and supplies at such locations as may be approved by the Commission for  
1716 the purpose of training enrollees in a school operated by the licensee to train persons who desire to  
1717 become qualified for employment or promotion in gaming operations. The Commission may establish  
1718 regulations for the conduct of any such schools.

1719 G. 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.

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

**§ 59.1-591. Denial of permit final.**

The denial of a supplier's permit by the Commission shall be final unless appealed under § 59.1-580, and a permit may not be applied for again for a period of five years from the date of denial without the permission of the Commission.

**Article 4.**

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

**§ 59.1-592. Suspension or revocation of license or permit.**

After a hearing, with 15 days' notice, the Commission may suspend or revoke any license or supplier's permit, or assess a civil penalty against the holder thereof in a sum not to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with or has been violated. The Commission may revoke or suspend such license or permit if it finds that facts not known by it at the time it considered the application indicate that such license or permit should not have been issued. Deliberations of the Commission hereunder shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If any such license or permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 59.1-580. Suspension or revocation of a license or permit by the Commission for any violation shall not preclude criminal liability for such violation.

**§ 59.1-593. Acquisition of interest in licensee or permit holder.**

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

**Article 5.**

**Service Permits.**

**§ 59.1-594. Service permit required.**

No person shall participate in any gaming operation as a casino gaming employee, concessionaire, or employee thereof or other occupation the Commission 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 Commission and complies with the provisions of this chapter and all Commission regulations. No service permit issued under the provisions of this chapter shall be transferable.

**§ 59.1-595. 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 Commission. The application shall be accompanied by a fee prescribed by the Commission.

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

**§ 59.1-596. Consideration of service permit application.**

A. The Commission 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 Commission shall issue a service permit, containing such information as the Commission considers appropriate. Such service permit shall be valid for one year. The Commission shall establish criteria and procedures for service permit renewal.

B. The Commission shall deny the application and refuse to issue the service permit, which denial shall be final unless an appeal is taken under § 59.1-580, 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 and integrity of casino gaming in the Commonwealth or that the applicant:

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

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

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

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

1781 suspended, or revoked in this or any other state, and such denial, suspension, or revocation is still in  
 1782 effect;

1783 5. Is unqualified to perform the duties required for the service permit sought; or

1784 6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering,  
 1785 fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery,  
 1786 embezzlement, administration or possession of drugs, or any crime considered by the Commission to be  
 1787 detrimental to the honesty and integrity of casino gaming operations in the Commonwealth.

1788 C. The Commission may refuse to issue a service permit if for any reason it feels the granting of  
 1789 such service permit is not consistent with the provisions of this chapter or its responsibilities or any  
 1790 regulations promulgated by any other agency of the Commonwealth.

1791 **§ 59.1-597. Suspension or revocation of service permit; civil penalty.**

1792 The Commission may suspend or revoke a service permit issued under this chapter or assess a civil  
 1793 penalty against the holder of such permit in a sum not to exceed \$10,000, after a hearing for which  
 1794 proper notice has been given to the permit holder, in any case where it has reason to believe that any  
 1795 provision of this chapter or any regulation, order, or condition of the Commission has not been  
 1796 complied with or has been violated. The Commission may revoke or suspend such service permit, after  
 1797 such hearing, if it finds that facts not known by it at the time it was considering the application indicate  
 1798 that such permit should not have been issued. If any service permit is suspended or revoked, the  
 1799 Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be  
 1800 final unless an appeal is taken in accordance with § 59.1-580. Suspension or revocation of a service  
 1801 permit by the Commission for any violation shall not preclude criminal liability for such violation.

1802 Article 6.

#### 1803 Conduct of Casino Gaming.

1804 **§ 59.1-598. Conduct of casino gaming.**

1805 A. Casino gaming may be conducted by licensed operators, subject to the following standards:

1806 1. Minimum and maximum wagers on games shall be set by the licensee.

1807 2. Agents of the Commission, the Department of State Police, and the local police and fire  
 1808 departments may enter any casino gaming establishment and inspect such facility at any time for the  
 1809 purpose of determining compliance with this chapter and also with other applicable laws, such as fire  
 1810 and safety laws.

1811 3. Employees of the Commission shall have the right to be present in any facilities under the control  
 1812 of the licensee.

1813 4. Gaming equipment and supplies customarily used in conducting casino gaming shall be purchased  
 1814 or leased only from suppliers holding permits for such purpose under this chapter.

1815 5. Persons licensed under this chapter shall permit no form of wagering on games except as  
 1816 permitted by this chapter.

1817 6. Wagers may be received only from a person present at the licensed casino gaming establishment.  
 1818 No person present at such facility shall place or attempt to place a wager on behalf of another person  
 1819 who is not present at the facility.

1820 7. No person under age 21 shall be permitted to be present where casino gaming is being conducted.  
 1821 No person under age 21 shall be permitted to make a wager under this chapter.

1822 8. Casino gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased  
 1823 from a licensed casino gaming operator. Such tokens, chips, or electronic cards may be used only for  
 1824 the purpose of making wagers on games.

1825 9. No licensee or permit holder shall accept postdated checks in payment for participation in any  
 1826 gaming operation. No licensee or permit holder, or any person on the premises of a casino gaming  
 1827 establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in  
 1828 payment for participation in any gaming operation.

1829 B. Casino gaming shall be conducted in accordance with all Commission regulations.

1830 Article 7.

#### 1831 Local Referendum.

1832 **§ 59.1-599. Local referendum required.**

1833 The Commission shall not grant any initial license to operate a casino gaming operation until a  
 1834 referendum approving the question is held in each county, city, or town in which such casino gaming  
 1835 operation is to be located, in the following manner:

1836 1. A petition signed by not less than five percent of the qualified voters of such county, city, or town  
 1837 shall be filed with the circuit court of such county, city, or town asking that a referendum be held on  
 1838 the question, "Shall casino gaming be permitted at a casino gaming establishment in (name of such  
 1839 county, city, or town) as may be approved by the Virginia Casino Gaming Commission in accordance  
 1840 with Chapter 52 (§ 59.1-571 et seq.) of Title 59.1 of the Code of Virginia?"

1841 2. Following the filing of such petition, the court shall, by order of record entered in accordance  
 1842 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 day.

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 Casino Gaming Commission in accordance with Chapter 52 (§ 59.1-571 et seq.) of Title 59.1 of the Code of Virginia?"

\_\_\_\_\_ 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 Commission and to the governing body of such county, city, 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 Commission 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.

#### **§ 59.1-600. Wagering tax; rate; distribution.**

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

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

1. 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 § 59.1-603.

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

#### **§ 59.1-601. 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 Commission, and a list of all persons to whom the tax-free passes are issued shall be filed with the Commission.

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

1. 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 § 59.1-603.

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

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

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

**§ 59.1-602. Operations of the Commission.**

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 Commission into the Casino Gaming Commission Operations Fund established pursuant to § 59.1-582.

**§ 59.1-603. 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, 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. 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. Expenditures from the Fund shall be made as follows:

1. For adjusted gross receipts tax established pursuant to § 59.1-600, 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 Commission 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 § 59.1-601, 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.**

**§ 59.1-604. Illegal operation; penalty.**

A. No person shall:

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

2. Operate casino gaming operation 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 Commission or a local governing body.

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

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

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



1966 *bet contingent on that outcome.*

1967 10. Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or  
1968 from a game, with intent to defraud, without having made a wager contingent on winning the game or  
1969 claim, collect, or take an amount of money or thing of value of greater value than the amount won.

1970 11. Use counterfeit chips or tokens in a game.

1971 12. Possess any key or device designed for the purpose of opening, entering, or affecting the  
1972 operation of a game, drop box, or electronic or mechanical device connected with the game or for  
1973 removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino  
1974 gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's  
1975 employment.

1976 13. Wager on the outcome of sporting events.

1977 B. Any person convicted of a violation of this section is guilty of a Class 6 felony. In addition, any  
1978 person convicted of a violation of subsection A shall be barred for life from gaming operations under  
1979 the jurisdiction of the Commission.

1980 **§ 59.1-605. Fraudulent use of credential; penalty.**

1981 A. Any person other than the lawful holder thereof who has in his possession any credential, license,  
1982 or permit issued by the Commission, or forged or simulated credential, license, or permit of the  
1983 Commission, and who uses such credential, license, or permit for the purposes of misrepresentation,  
1984 fraud, or touting is guilty of a Class 4 felony.

1985 B. Any credential, license, or permit issued by the Commission shall be automatically revoked if used  
1986 by the holder thereof for a purpose other than identification and in the performance of legitimate duties  
1987 in a casino gaming establishment.

1988 **§ 59.1-606. Persons under 21 years of age prohibited; penalty.**

1989 No person shall wager on or conduct any wagering on the outcome of a game pursuant to the  
1990 provisions of this chapter unless such person is 21 years of age or older. No person shall accept any  
1991 wager from a person under age 21. Violation of this section is a Class 1 misdemeanor.

1992 **§ 59.1-607. Conspiracies and attempts to commit violations; penalty.**

1993 A. Any person who conspires, confederates, or combines with another, either within or outside the  
1994 Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 4 felony.

1995 B. Any person who attempts to commit any act prohibited by this article shall be guilty of a criminal  
1996 offense and punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1997 **§ 59.1-608. Civil penalties.**

1998 Any person who conducts a gaming operation without first obtaining a license to do so, or who  
1999 continues to conduct such games after revocation of his license, in addition to other penalties provided,  
2000 shall be subject to a civil penalty assessed by the Commission equal to the amount of gross receipts  
2001 derived from wagering on games, whether unauthorized or authorized, conducted on the day as well as  
2002 confiscation and forfeiture of all casino gaming equipment, devices, and supplies used in the conduct of  
2003 unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State  
2004 Treasurer for deposit to the general fund.

2005 **2. That the initial appointments to the Virginia Casino Gaming Commission as created by this act**  
2006 **shall be as follows: one member for a term of one year, one member for a term of two years, one**  
2007 **member for a term of three years, one member for a term of four years, and one member for a**  
2008 **term of five years. Thereafter, all appointments shall be for terms of five years.**

2009 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**  
2010 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
2011 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**  
2012 **780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to**  
2013 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**  
2014 **necessary appropriation cannot be determined for periods of commitment to the custody of the**  
2015 **Department of Juvenile Justice.**