

17103493D

## SENATE BILL NO. 1499

Offered January 18, 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, 4.1-128, as it is currently effective and as it shall become effective, 4.1-210, 4.1-231, 4.1-233, 33.2-1524, and 33.2-1526 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 59.1 a chapter numbered 52, containing articles numbered 1 through 9, consisting of sections numbered 59.1-571 through 59.1-608, relating to the Virginia Riverboat Gaming Commission; penalties.*

Patron—Lucas

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, 4.1-128, as it is currently effective and as it shall become effective, 4.1-210, 4.1-231, 4.1-233, 33.2-1524, and 33.2-1526 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 59.1 a chapter numbered 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 Riverboat 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 Riverboat Gaming Commission*, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

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 Riverboat Gaming Commission*, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

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

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution

INTRODUCED

SB1499

59 of higher education. Information contained in inactive reports shall be disclosed in a form that does not  
60 reveal the identity of charging parties, persons supplying the information, or other individuals involved  
61 in the investigation.

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

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

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

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

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

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

105 10. Records of active investigations being conducted by the Department of Criminal Justice Services  
106 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.),  
107 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

108 11. Information furnished to or prepared by the Board of Education pursuant to subsection D of  
109 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,  
110 unauthorized alteration, or improper administration of tests by local school board employees responsible  
111 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure  
112 of such information to (i) a local school board or division superintendent for the purpose of permitting  
113 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)  
114 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the  
115 identity of any person making a complaint or supplying information to the Board on a confidential basis  
116 and (b) does not compromise the security of any test mandated by the Board.

117 12. Information contained in (i) an application for licensure or renewal of a license for teachers and  
118 other school personnel, including transcripts or other documents submitted in support of an application,  
119 and (ii) an active investigation conducted by or for the Board of Education related to the denial,  
120 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 the public body.

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the

305 Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment  
306 Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

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

310 32. [Expired.]

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

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

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

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

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

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

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

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

338 41. Discussion or consideration by the Board of Education of information relating to the denial,  
339 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of  
340 § 2.2-3705.3.

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

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

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

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

353 46. Discussion or consideration of personal and proprietary information that are excluded from the  
354 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of  
355 § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain  
356 information that has been certified for release by the person who is the subject of the information or  
357 transformed into a statistical or aggregate form that does not allow identification of the person who  
358 supplied, or is the subject of, the information.

359 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia  
360 Alcoholic Beverage Control Authority of information excluded from this chapter pursuant to subdivision  
361 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

362 48. Discussion or consideration of grant or loan application records excluded from this chapter  
363 pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from  
364 the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title  
365 23.1.

366 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 Riverboat Gaming Commission in a licensing appeal action conducted pursuant to § 59.1-579 regarding the denial or revocation of a license of a riverboat gaming operator and discussion, consideration, or review of matters related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

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

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

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

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

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

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

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

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

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

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

428 ounces.

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

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

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

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

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

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

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

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

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

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

466 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned  
467 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for  
468 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
469 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned  
470 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing  
471 grapes or other fruits from agricultural growers within the Commonwealth and with facilities for  
472 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains  
473 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher  
474 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine  
475 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine  
476 manufactured by the institution shall be stored on the premises of such farm winery that shall be  
477 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in  
478 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this  
479 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of  
480 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a  
481 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the  
482 individual members of the cooperative as long as such land is located in the Commonwealth. For  
483 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or  
484 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this  
485 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for  
486 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned  
487 agricultural" shall otherwise limit or affect local zoning authority.

488 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty  
489 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 or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

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

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

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

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

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

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

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

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

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

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

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

551 improvement actually and exclusively used as a private residence.

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

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

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

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

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

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

584 *"Riverboat" means a self-propelled vessel on which lawful riverboat gaming is authorized and*  
585 *licensed as provided in Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

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

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

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

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

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

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

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

610 "Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and  
611 not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of  
612 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

734 "Hotel" means any duly licensed establishment, provided with special space and accommodation,  
735 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.

*"Riverboat" means a self-propelled vessel on which lawful riverboat gaming is authorized and licensed as provided in Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

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

"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.

**§ 4.1-128. (Effective until July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

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

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

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

C. *No county, city, or town that has approved riverboat gaming shall adopt any ordinance or resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a riverboat as defined in § 59.1-571.*

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

**§ 4.1-128. (Effective July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

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

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

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

C. *No county, city, or town that has approved riverboat gaming shall adopt any ordinance or resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a riverboat as defined in § 59.1-571.*

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

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

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

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the

premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

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

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

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

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

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

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane or by riverboat licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier or riverboat, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee



may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

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

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

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

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

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

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

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

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. 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.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at 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

1043 from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages  
 1044 served on the premises that meet or exceed the monthly minimum established by Board regulations for  
 1045 mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or  
 1046 events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises  
 1047 approved by the Board.

1048 16. Annual mixed beverage performing arts facility license to persons operating food concessions at  
 1049 any performing arts facility located in the City of Waynesboro, provided that the performing arts facility  
 1050 (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which  
 1051 was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been  
 1052 rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on  
 1053 the dates of performances or private or special events, of alcoholic beverages for on-premises  
 1054 consumption in areas upon the licensed premises approved by the Board.

1055 17. A combined mixed beverage restaurant and caterer's license, which may be granted to any  
 1056 restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to  
 1057 subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location,  
 1058 and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed  
 1059 beverage caterer at the same business premises designated in the license, with a common alcoholic  
 1060 beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the  
 1061 separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision  
 1062 A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

1063 18. *Mixed beverage riverboat gaming licenses to persons operating a riverboat gaming establishment*  
 1064 *licensed by the Virginia Riverboat Gaming Commission pursuant to Chapter 52 (§ 59.1-571 et seq.) of*  
 1065 *Title 59.1, which shall authorize the licensee to sell and serve mixed beverages for on-premises*  
 1066 *consumption in areas approved by the Board on the premises of the place designated in the license.*

1067 B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, ~~or~~ 17, or  
 1068 18 shall automatically include a license to sell and serve wine and beer for on-premises consumption.  
 1069 The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

1070 **§ 4.1-231. Taxes on state licenses.**

1071 A. The annual fees on state licenses shall be as follows:

1072 1. Alcoholic beverage licenses. For each:

1073 a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured  
 1074 during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than  
 1075 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured  
 1076 during such year, \$3,725;

1077 b. Fruit distiller's license, \$3,725;

1078 c. Banquet facility license or museum license, \$190;

1079 d. Bed and breakfast establishment license, \$35;

1080 e. Tasting license, \$40 per license granted;

1081 f. Equine sporting event license, \$130;

1082 g. Motor car sporting event facility license, \$130;

1083 h. Day spa license, \$100;

1084 i. Delivery permit, \$120 if the permittee holds no other license under this title;

1085 j. Meal-assembly kitchen license, \$100;

1086 k. Canal boat operator license, \$100;

1087 l. Annual arts venue event license, \$100; and

1088 m. Art instruction studio license, \$100.

1089 2. Wine licenses. For each:

1090 a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the  
 1091 license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

1092 b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per  
 1093 year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000  
 1094 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than  
 1095 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons  
 1096 of wine per year;

1097 (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more  
 1098 premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by  
 1099 the number of separate locations covered by the license;

1100 c. Wine importer's license, \$370;

1101 d. Retail off-premises winery license, \$145, which shall include a delivery permit;

1102 e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of  
 1103 which shall include a delivery permit;

1104 f. Wine shipper's license, \$95; and

- 1105 g. Internet wine retailer license, \$150.  
 1106 3. Beer licenses. For each:  
 1107 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the  
 1108 license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which  
 1109 the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;  
 1110 b. Bottler's license, \$1,430;  
 1111 c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or  
 1112 less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of  
 1113 beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;  
 1114 (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be  
 1115 the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the  
 1116 license;  
 1117 d. Beer importer's license, \$370;  
 1118 e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common  
 1119 carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by  
 1120 train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club  
 1121 cars operated daily in the Commonwealth;  
 1122 f. Retail off-premises beer license, \$120, which shall include a delivery permit;  
 1123 g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a  
 1124 town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a  
 1125 delivery permit;  
 1126 h. Beer shipper's license, \$95; and  
 1127 i. Retail off-premises brewery license, \$120, which shall include a delivery permit.  
 1128 4. Wine and beer licenses. For each:  
 1129 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a  
 1130 common carrier of passengers by train, boat or airplane *or by riverboat licensed pursuant to Chapter 52*  
 1131 *(§ 59.1-571 et seq.) of Title 59.1*, \$300; for each such license to a common carrier of passengers by train  
 1132 or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars  
 1133 operated daily in the Commonwealth, and for each such license granted to a common carrier of  
 1134 passengers by airplane, \$750;  
 1135 b. Retail on-premises wine and beer license to a hospital, \$145;  
 1136 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience  
 1137 grocery store license, \$230, which shall include a delivery permit;  
 1138 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall  
 1139 include a delivery permit;  
 1140 e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the  
 1141 Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be  
 1142 \$100 per license;  
 1143 f. Gourmet brewing shop license, \$230;  
 1144 g. Wine and beer shipper's license, \$95;  
 1145 h. Annual banquet license, \$150;  
 1146 i. Fulfillment warehouse license, \$120;  
 1147 j. Marketing portal license, \$150; and  
 1148 k. Gourmet oyster house license, \$230.  
 1149 5. Mixed beverage licenses. For each:  
 1150 a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants  
 1151 located on premises of and operated by hotels or motels, or other persons:  
 1152 (i) With a seating capacity at tables for up to 100 persons, \$560;  
 1153 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and  
 1154 (iii) With a seating capacity at tables for more than 150 persons, \$1,430.  
 1155 b. Mixed beverage restaurant license for restaurants located on the premises of and operated by  
 1156 private, nonprofit clubs:  
 1157 (i) With an average yearly membership of not more than 200 resident members, \$750;  
 1158 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,  
 1159 \$1,860; and  
 1160 (iii) With an average yearly membership of more than 500 resident members, \$2,765.  
 1161 c. Mixed beverage caterer's license, \$1,860;  
 1162 d. Mixed beverage limited caterer's license, \$500;  
 1163 e. Mixed beverage special events license, \$45 for each day of each event;  
 1164 f. Mixed beverage club events licenses, \$35 for each day of each event;  
 1165 g. Annual mixed beverage special events license, \$560;

- 1166 h. Mixed beverage carrier license:  
 1167 (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the  
 1168 Commonwealth by a common carrier of passengers by train;  
 1169 (ii) \$560 for each common carrier of passengers by boat;  
 1170 (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.  
 1171 i. Annual mixed beverage amphitheater license, \$560;  
 1172 j. Annual mixed beverage motor sports race track license, \$560;  
 1173 k. Annual mixed beverage banquet license, \$500;  
 1174 l. Limited mixed beverage restaurant license:  
 1175 (i) With a seating capacity at tables for up to 100 persons, \$460;  
 1176 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;  
 1177 (iii) With a seating capacity at tables for more than 150 persons, \$1,330;  
 1178 m. Annual mixed beverage motor sports facility license, \$560; and  
 1179 n. Annual mixed beverage performing arts facility license, \$560; and  
 1180 o. *Mixed beverage riverboat gaming license granted to persons operating a riverboat gaming*  
 1181 *establishment licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, \$2 per gaming station.*  
 1182 6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax  
 1183 imposed by this section on the license for which the applicant applied.  
 1184 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be  
 1185 subject to proration to the following extent: If the license is granted in the second quarter of any year,  
 1186 the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be  
 1187 decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by  
 1188 three-fourths.  
 1189 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000  
 1190 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license  
 1191 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the  
 1192 number of gallons permitted to be manufactured shall be prorated in the same manner.  
 1193 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000  
 1194 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or  
 1195 winery license, such person shall pay for such unlimited license a license tax equal to the amount that  
 1196 would have been charged had such license been applied for at the time that the license to manufacture  
 1197 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
 1198 shall be entitled to a refund of the amount of license tax previously paid on the limited license.  
 1199 Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12,  
 1200 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
 1201 nearest cent, multiplied by the number of months in the license period, and then increased by five  
 1202 percent. Such tax shall not be refundable, except as provided in § 4.1-232.  
 1203 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
 1204 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
 1205 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
 1206 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
 1207 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license  
 1208 tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining  
 1209 the liability of a wholesale wine distributor to merchants' license taxation, and in computing the  
 1210 wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases  
 1211 shall be disregarded.  
 1212 D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license  
 1213 purchased in person from the Board if such license is available for purchase online.  
 1214 **§ 4.1-233. Taxes on local licenses.**  
 1215 A. In addition to the state license taxes, the annual local license taxes which may be collected shall  
 1216 not exceed the following sums:  
 1217 1. Alcoholic beverages. — For each:  
 1218 a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured  
 1219 during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no  
 1220 local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol  
 1221 or spirits, or both, during such license year;  
 1222 b. Fruit distiller's license, \$1,500;  
 1223 c. Bed and breakfast establishment license, \$40;  
 1224 d. Museum license, \$10;  
 1225 e. Tasting license, \$5 per license granted;  
 1226 f. Equine sporting event license, \$10;  
 1227 g. Day spa license, \$20;

- 1228 h. Motor car sporting event facility license, \$10;  
 1229 i. Meal-assembly kitchen license, \$20;  
 1230 j. Canal boat operator license, \$20;  
 1231 k. Annual arts venue event license, \$20; and  
 1232 l. Art instruction studio license, \$20.  
 1233 2. Beer. — For each:  
 1234 a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the  
 1235 license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the  
 1236 license is granted, \$1,000;  
 1237 b. Bottler's license, \$500;  
 1238 c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;  
 1239 d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer  
 1240 license in a city, \$100, and in a county or town, \$25; and  
 1241 e. Beer shipper's license, \$10.  
 1242 3. Wine. — For each:  
 1243 a. Winery license, \$50;  
 1244 b. Wholesale wine license, \$50;  
 1245 c. Farm winery license, \$50; and  
 1246 d. Wine shipper's license, \$10.  
 1247 4. Wine and beer. — For each:  
 1248 a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail  
 1249 off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery  
 1250 store license, in a city, \$150, and in a county or town, \$37.50;  
 1251 b. Hospital license, \$10;  
 1252 c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board  
 1253 pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20  
 1254 per license;  
 1255 d. Gourmet brewing shop license, \$150;  
 1256 e. Wine and beer shipper's license, \$10;  
 1257 f. Annual banquet license, \$15; and  
 1258 g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.  
 1259 5. Mixed beverages. — For each:  
 1260 a. Mixed beverage restaurant license, including restaurants located on the premises of and operated  
 1261 by hotels or motels, or other persons:  
 1262 (i) With a seating capacity at tables for up to 100 persons, \$200;  
 1263 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and  
 1264 (iii) With a seating capacity at tables for more than 150 persons, \$500.  
 1265 b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;  
 1266 c. Mixed beverage caterer's license, \$500;  
 1267 d. Mixed beverage limited caterer's license, \$100;  
 1268 e. Mixed beverage special events licenses, \$10 for each day of each event;  
 1269 f. Mixed beverage club events licenses, \$10 for each day of each event;  
 1270 g. Annual mixed beverage amphitheater license, \$300;  
 1271 h. Annual mixed beverage motor sports race track license, \$300;  
 1272 i. Annual mixed beverage banquet license, \$75;  
 1273 j. Limited mixed beverage restaurant license:  
 1274 (i) With a seating capacity at tables for up to 100 persons, \$100;  
 1275 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;  
 1276 (iii) With a seating capacity at tables for more than 150 persons, \$400;  
 1277 k. Annual mixed beverage motor sports facility license, \$300; and  
 1278 l. Annual mixed beverage performing arts facility license, \$300; and  
 1279 m. *Mixed beverage riverboat gaming license granted to persons operating a riverboat gaming*  
 1280 *establishment licensed pursuant to Chapter 52 (§ 59.1-571 et seq.) of Title 59.1, \$1 per gaming station.*  
 1281 B. Common carriers. — No local license tax shall be either charged or collected for the privilege of  
 1282 selling alcoholic beverages in (i) passenger trains, boats or airplanes, *or riverboats licensed under*  
 1283 *Chapter 52 (§ 59.1-571 et seq.) of Title 59.1*, and (ii) rooms designated by the Board of establishments  
 1284 of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.  
 1285 C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in  
 1286 the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local  
 1287 retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales,  
 1288 may include alcoholic beverages in the base for measuring such local license taxes the same as if the

1289 alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter  
1290 shall exempt any licensee from any local merchants' or local restaurant license tax, but such local  
1291 merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license  
1292 taxes authorized by this chapter.

1293 The governing body of any county, city or town, in adopting an ordinance under this section, shall  
1294 provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation  
1295 under the ordinance, and in computing the local wholesale merchants' license tax on such beer  
1296 wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be  
1297 the amount of beer purchases which would be necessary to produce a local wholesale merchants' license  
1298 tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine  
1299 licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale  
1300 merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall  
1301 be disregarded, which stated amount shall be the amount of wine purchases which would be necessary  
1302 to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax  
1303 paid by such wholesale wine licensee.

1304 D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on  
1305 any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such  
1306 wholesaler maintains no place of business in such county, city or town.

1307 E. Application of county tax within town. — Any county license tax imposed under this section shall  
1308 not apply within the limits of any town located in such county, where such town now, or hereafter,  
1309 imposes a town license tax on the same privilege.

1310 **§ 11-16.1. Exemption from chapter; certain riverboat gaming operations.**

1311 *This chapter shall not apply to any bet, wager, or gaming permitted by Chapter 52 (§ 59.1-571 et*  
1312 *seq.) of Title 59.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.*

1313 **§ 18.2-334.5. Exemption from article; certain riverboat gaming operations.**

1314 *Nothing in this article shall be construed to make it illegal to participate in any gaming operation*  
1315 *conducted in accordance with Chapter 52 (§ 59.1-571 et seq.) of Title 59.1.*

1316 **§ 33.2-1524. Transportation Trust Fund.**

1317 There is hereby created in the Department of the Treasury a special nonreverting fund to be known  
1318 as the Transportation Trust Fund, consisting of:

1319 1. Funds remaining for highway construction purposes among the highway systems pursuant to  
1320 § 33.2-358.

1321 2. The additional revenues generated by enactments of Chapters 11, 12, and 15 of the 1986 Acts of  
1322 Assembly, Special Session I, and designated for this fund.

1323 3. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title that  
1324 are payable into the state treasury and tolls and other revenues derived from other transportation  
1325 projects, which may include upon the request of the applicable appointed local governing body, as soon  
1326 as their obligations have been satisfied, such tolls and revenue derived for transportation projects  
1327 pursuant to the Chesapeake Bay Bridge and Tunnel District and Commission established in Chapter 22  
1328 (§ 33.2-2200 et seq.) and to the Richmond Metropolitan Transportation Authority established in Chapter  
1329 29 (§ 33.2-2900 et seq.), or if the appointed local governing body requests refunding or advanced  
1330 refunding by the Board and such refunding or advanced refunding is approved by the General Assembly.  
1331 Such funds shall be held in separate subaccounts of the Transportation Trust Fund to the extent required  
1332 by law or the Board.

1333 4. Such other funds as may be appropriated by the General Assembly from time to time and  
1334 designated for the Transportation Trust Fund.

1335 5. All interest, dividends, and appreciation that may accrue to the Transportation Trust Fund and the  
1336 Highway Maintenance and Operating Fund.

1337 6. All amounts required by contract to be paid over to the Transportation Trust Fund.

1338 7. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private  
1339 Transportation Act of 1995 (§ 33.2-1800 et seq.).

1340 8. *The revenues deposited into the Transportation Trust Fund pursuant to Chapter 52 (§ 59.1-571 et*  
1341 *seq.) of Title 59.1.*

1342 **§ 33.2-1526. Commonwealth Space Flight Fund, Commonwealth Port Fund, Commonwealth**  
1343 **Airport Fund, and Commonwealth Mass Transit Fund.**

1344 Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 2 of  
1345 § 33.2-1524, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as  
1346 established in subdivision A 2 of § 58.1-638; an aggregate of 2.4 percent shall be set aside as the  
1347 Commonwealth Airport Fund as established in subdivision A 3 of § 58.1-638; and an aggregate of 14.7  
1348 percent shall be set aside as the Commonwealth Mass Transit Fund as established in subdivision A 4 of  
1349 § 58.1-638. Beginning with the Commonwealth's 2012-2013 fiscal year through the Commonwealth's  
1350 2023-2024 fiscal year, each fiscal year from the funds becoming part of the Transportation Trust Fund

pursuant to subdivision 2 of § 33.2-1524 the Comptroller shall transfer \$15.8 million to the Commonwealth Space Flight Fund as established in subdivision A 3a of § 58.1-638. The remaining funds deposited into or held in the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524, together with funds deposited pursuant to subdivisions 1 and 4, and 8 of § 33.2-1524, shall be expended for capital improvements, including construction, reconstruction, maintenance, and improvements of highways according to the provisions of subsection C or D of § 33.2-358 or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

#### CHAPTER 52.

### VIRGINIA RIVERBOAT GAMING.

#### Article I.

#### 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 riverboat gaming less winnings paid to winners.

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

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

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

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

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

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

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

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

"Immediate family" means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the principal.

"Licensee" or "license holder" includes any person holding an operator's license under § 59.1-585.

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

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

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

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

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

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

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

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

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

##### § 59.1-572. Regulation and control of riverboat gaming.

A. Riverboat gaming shall be licensed and permitted as herein provided aboard excursion vessels

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

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

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

**§ 59.1-573. Virginia Riverboat Gaming Commission created; members.**

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

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

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

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

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

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

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

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

A. The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of riverboat gaming as set forth in § 59.1-572, including but not limited to the power and duty to:

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

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



3. Issue an operator's license only to a person who meets the criteria of § 59.1-585.

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

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

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

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

8. Order such audits, in addition to those required by § 59.1-577, as it deems necessary and desirable.

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

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

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

**§ 59.1-576. Executive Secretary; staff.**

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

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

**§ 59.1-577. 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.

**§ 59.1-578. Background investigations required.**

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

**§ 59.1-579. 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.

**§ 59.1-580. Injunction.**

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

**§ 59.1-581. Riverboat Gaming Commission Operations Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Riverboat Gaming Commission Operations Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys to be deposited into the Fund pursuant to § 59.1-600 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Commission to fund its operations as it relates to the administration and regulation of riverboat gaming pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Commission.

Article 2.

Licenses.

**§ 59.1-582. Operator's license required; license not transferable.**

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

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

**§ 59.1-583. Application for operator's license; penalty.**

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

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

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

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

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

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

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

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

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

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

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

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

shall be accompanied by the application fee provided for in this section.

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

D. The licensed operator shall be the person primarily responsible for the riverboat gaming operation and compliance with the provisions of this chapter. The applicant shall identify each riverboat it intends to use on an interim basis or permanent basis and certify that each riverboat will (i) comply with the provisions of this chapter; (ii) be either modeled after a nineteenth-century riverboat or be of a cruise ship design; and (iii) be eligible for registration, certification, and licensing in accordance with all applicable laws and regulations.

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

**§ 59.1-584. Notice to local governing body; local impact.**

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

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

**§ 59.1-585. Issuance of operator's license.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 59.1-586. Denial of license final.**

The denial of an operator's license by the Commission shall be final unless appealed under § 59.1-579, and a license may not be applied for again for a period of five years from the date of denial without leave of the Commission.

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

A. A license issued under this chapter shall be for the period set by the Commission, not to be 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 for license renewal and for amending licenses to conform to changes in a licensee's operations. Renewal shall not be unreasonably refused.

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

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

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

1. The amount received daily from admission fees;
2. The total amount of gross receipts; and
3. The total amount of adjusted gross receipts.

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

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

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

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

**Article 3.**

**Supplier's Permits.**

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

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

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

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

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

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

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

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

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

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

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

E. Any person that supplies any gaming equipment, devices, or supplies to a licensed riverboat gaming operation, or manages any operation, including a computerized network, of a riverboat, shall first obtain a supplier's permit. A supplier shall furnish to the Commission a list of all management services, equipment, devices, and supplies offered for sale or lease in connection with the games authorized under this chapter. A supplier shall keep books and records for the furnishing of equipment,

devices, and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Commission listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth. A licensed operator may operate its own equipment, devices, and supplies and may utilize gaming equipment, devices, and supplies at such locations as may be approved by the Commission for the purpose of training enrollees in a school operated by the licensee to train persons who desire to become qualified for employment or promotion in gaming operations. The Commission may establish rules for the conduct of any such schools. Each holder of an operator's license under this chapter shall file an annual report listing its inventories of gaming equipment, devices, and supplies related to its operations in the Commonwealth.

F. Any person who knowingly makes a false statement on an application 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 § 59.1-579, and a permit may not be applied for again for a period of five years from the date of denial without the permission of the Commission.

**Article 4.**

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

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

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 § 59.1-579. 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 riverboat gaming operations, or to its reputation, the application shall be denied.

**Article 5.**

**Service Permits.**

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

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

**§ 59.1-595. Application for service permit.**

A. Any person desiring to obtain a service permit as required by this article 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 pursuant to this article shall be verified by the oath or affirmation of the applicant.

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

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

1781 permit renewal.

1782 B. The Commission shall deny the application and refuse to issue the permit, which denial shall be  
 1783 final unless an appeal is taken under § 59.1-579, if it finds that the issuance of such permit to such  
 1784 applicant would not be in the best interests of the Commonwealth or would reflect negatively on the  
 1785 honesty and integrity of riverboat gaming in the Commonwealth or that the applicant:

1786 1. Has knowingly made a false statement of a material fact in the application or has deliberately  
 1787 failed to disclose any information requested by the Commission;

1788 2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with riverboat  
 1789 gaming operations in this or any other state;

1790 3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the  
 1791 Commission;

1792 4. Has had a permit to engage in activity related to riverboat gaming denied for cause, suspended,  
 1793 or revoked in this or any other state, and such denial, suspension, or revocation is still in effect;

1794 5. Is unqualified to perform the duties required for the permit sought; or

1795 6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering,  
 1796 fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery,  
 1797 embezzlement, administration or possession of drugs, or any crime considered by the Commission to be  
 1798 detrimental to riverboat gaming in the Commonwealth.

1799 C. The Commission may refuse to issue a service permit if for any reason it feels the granting of  
 1800 such permit is not consistent with the provisions of this chapter or its responsibilities or any regulations  
 1801 promulgated by any other agency of the Commonwealth.

1802 **§ 59.1-597. Suspension or revocation of service permit; civil penalty.**

1803 The Commission may suspend or revoke a service permit issued under this article or assess a civil  
 1804 penalty against the holder of such permit in a sum not to exceed \$10,000, after a hearing for which  
 1805 proper notice has been given to the permit holder, in any case where it has reason to believe that any  
 1806 provision of this chapter or any regulation, order, or condition of the Commission has not been  
 1807 complied with or has been violated. The Commission may revoke or suspend such permit, after such  
 1808 hearing, if it finds that facts not known by it at the time it was considering the application indicate that  
 1809 such permit should not have been issued. If any permit is suspended or revoked, the Commission shall  
 1810 state its reasons for doing so, which shall be entered of record. Such action shall be final unless an  
 1811 appeal is taken in accordance with § 59.1-579. Suspension or revocation of a permit by the Commission  
 1812 for any violation shall not preclude criminal liability for such violation.

1813 Article 6.

1814 Conduct of Riverboat Gaming.

1815 **§ 59.1-598. Conduct of riverboat gaming.**

1816 A. Riverboat gaming may be conducted by licensed operators, subject to the following standards:

1817 1. No gaming operations may be conducted on docks or other appurtenant facilities of a riverboat  
 1818 other than a training school. No gaming may be conducted aboard a riverboat when it is docked except  
 1819 (i) during embarkation and disembarkation of passengers immediately preceding and following actual  
 1820 cruising, pursuant to such limitations as may be established by the Commission, or (ii) when under  
 1821 highly unusual conditions the master of the vessel deems it unsafe to leave the dock due to weather or  
 1822 environmental conditions, or the Commission determines, after consultation with the U.S. Army Corps of  
 1823 Engineers or other responsible federal or state agencies, that the waterway on which the riverboat is  
 1824 licensed to cruise has become nonnavigable. Upon a determination pursuant to clause (ii), the licensed  
 1825 operator shall advise all passengers prior to their embarkation that the riverboat will not depart the  
 1826 dock. After having embarked, passengers shall not be permitted to disembark prior to the scheduled end  
 1827 of the excursion, except under circumstances that would constitute an emergency or for a period of time  
 1828 not to exceed 30 minutes as determined by Commission regulations, to permit the orderly embarkation  
 1829 and disembarkation of passengers by the licensee.

1830 2. Gaming excursions shall not exceed four hours, with the exception of extended cruises expressly  
 1831 approved by the Commission.

1832 3. Minimum and maximum wagers on games shall be set by the licensee.

1833 4. Agents of the Commission and the Department of State Police may enter any riverboat gaming  
 1834 establishment and inspect such facility at any time for the purpose of determining compliance with this  
 1835 chapter.

1836 5. Employees of the Commission shall have the right to be present in any facilities under the control  
 1837 of the licensee.

1838 6. Gaming equipment and supplies customarily used in conducting riverboat gaming shall be  
 1839 purchased or leased only from suppliers holding permits for such purpose under this chapter.

1840 7. Persons licensed under this chapter shall permit no form of wagering on games except as  
 1841 permitted by this chapter.

1842 8. Wagers may be received only from a person present at the licensed gaming establishment. No

person present at such facility shall place or attempt to place a wager on behalf of another person who is not present at the facility.

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

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

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

B. It is unlawful for any person to erect, maintain, or operate any pier or other structure, to operate any ferry, shuttle, or other device, or to enter onto any of the foregoing for purposes of transporting persons from the Commonwealth to any facility or premises where gaming is conducted other than a riverboat licensed under this chapter.

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

#### Article 7.

#### Taxation and Audit.

#### **§ 59.1-599. Adjusted gross receipts tax; rate; distribution.**

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

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

1. Fifty percent shall be paid to the Transportation Trust Fund established under § 33.2-1524 to be used for transportation purposes as provided under § 33.2-1526.

2. Subject to the provisions of § 59.1-600, 50 percent shall be paid to the Local Riverboat Gaming Proceeds Fund established pursuant to § 59.1-602.

#### **§ 59.1-600. Admission tax; fees; distribution.**

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

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

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

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

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

1. Subject to the provisions of § 59.1-600, \$1 shall be paid to the Transportation Trust Fund established under § 33.2-1524 to be used for transportation purposes as provided under § 33.2-1526; and

2. One dollar shall be paid to the Local Riverboat Gaming Proceeds Fund established pursuant to § 59.1-602.

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

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

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

#### **§ 59.1-601. Operations of the Commission.**

From the amounts to be deposited to the Transportation Trust Fund pursuant to this chapter, the Comptroller shall, on a monthly basis, deposit one-twelfth of the amount provided in the general appropriation act for the operation and administration of the Commission into the Riverboat Gaming Commission Operations Fund established pursuant to § 59.1-581.

#### **§ 59.1-602. Local Riverboat Gaming Proceeds Fund.**



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

1. For adjusted gross receipts tax established pursuant to § 59.1-599, the proceeds of the tax shall be paid by the Comptroller to each locality in which riverboat gaming establishments are located. The tax proceeds shall be paid on a pro rata basis using the quarterly adjusted gross receipts tax proceeds generated in each locality. Payments by the Comptroller shall be made no later than the twentieth day of the month immediately following the end of the calendar quarter. To facilitate such payments, the Commission shall provide a written certificate to the Comptroller reporting the most recent quarterly adjusted gross receipts tax proceeds generated in each locality not later than the tenth day of the month immediately following the end of the calendar quarter.

2. For the admission tax established pursuant to § 59.1-600, revenues deposited into the Fund shall be paid by the Comptroller to the locality in which the admission tax was collected. Such payment shall be paid quarterly to the treasurer of such locality. To facilitate such payments, the Commission shall provide a written certificate to the Comptroller reporting the admission tax deposited into the Fund in the most recent quarter by locality where the tax was collected. The certificate shall be provided to the Comptroller no later than the tenth day of the month immediately following the end of the calendar quarter, and the Comptroller shall make the corresponding payment to each locality no later than the twentieth day of the month immediately following the end of the calendar quarter.

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

#### Article 8.

#### Local Referendum.

#### § 59.1-603. Local referendum required.

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

1. A petition, signed by no less than five percent of the qualified voters of such county, city, or town, shall be filed with the circuit court of such county, city, or town asking that a referendum be held on the question, "Shall riverboat gaming be permitted at a riverboat gaming establishment in (name of such county, city, or town) as may be approved by the Virginia Riverboat Gaming Commission in accordance with Chapter 52 (§ 59.1-571 et seq.) of Title 59.1 of the Code of Virginia?"

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

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

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

"Shall riverboat gaming be permitted at a riverboat gaming establishment in \_\_\_\_\_ (name of county, city, or town) as may be approved by the Virginia Riverboat 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 on the blank line provided for such purpose immediately preceding the word "Yes," leaving the blank line immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark on the blank line provided for such purpose immediately preceding the word "No," leaving the blank line immediately preceding the word "Yes" unmarked.

5. 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.



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

7. 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.

B. For purposes of this section, "town" means any town with a population of 5,000 or more.

#### Article 9.

#### Prohibited Acts; Penalties.

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

A. No person shall:

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

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

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

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

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

a. In projecting the outcome of a game;

b. In keeping track of the cards played;

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

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

6. Cheat at gaming;

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

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

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

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

11. Use counterfeit chips or tokens in a game;

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

13. Wager on the outcome of sporting events.

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

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

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

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

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

No person shall wager on or conduct any wagering on the outcome of a game pursuant to the

2027 provisions of this chapter unless such person is 21 years of age or older. No person shall accept any  
2028 wager from a person under age 21. Violation of this section is a Class 1 misdemeanor.

2029 **§ 59.1-607. Conspiracies and attempts to commit violations; penalty.**

2030 A. Any person who conspires, confederates, or combines with another, either within or outside the  
2031 Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 4 felony.

2032 B. Any person who attempts to commit any act prohibited by this chapter is guilty of a criminal  
2033 offense punishable as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

2034 **§ 59.1-608. Civil penalties.**

2035 Any person who conducts a riverboat gaming operation without first obtaining a license to do so, or  
2036 who continues to conduct such games after revocation of his license, in addition to other penalties  
2037 provided, shall be subject to a civil penalty equal to the amount of gross receipts derived from wagering  
2038 on games, whether unauthorized or authorized, conducted on the day as well as confiscation and  
2039 forfeiture of all gaming equipment used in the conduct of unauthorized games.

2040 **2. That the initial appointments to the Virginia Riverboat Gaming Commission shall be as follows:**  
2041 **one member for a term of one year, one member for a term of two years, one member for a term**  
2042 **of three years, one member for a term of four years, and one member for a term of five years.**  
2043 **Thereafter, all appointments shall be for terms of five years.**

2044 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**  
2045 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
2046 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**  
2047 **780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to**  
2048 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**  
2049 **necessary appropriation cannot be determined for periods of commitment to the custody of the**  
2050 **Department of Juvenile Justice.**