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SENATE BILL NO. 384

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator McPike
on February 7, 2020)

(Patron Prior to Substitute—Senator McPike)

A BILL to amend and reenact §§ 2.2-3711, 18.2-334.3, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4007, 58.1-4027, 59.1-364, and 59.1-569 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, by adding a section numbered 58.1-4015.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4048, relating to Virginia Lottery; sports betting; Problem Gambling Treatment and Support Fund; Sports Betting Operations Fund; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, 18.2-334.3, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4007, 58.1-4027, 59.1-364, and 59.1-569 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 in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, by adding a section numbered 58.1-4015.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4048, as follows:

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. 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 public institution of higher education in the Commonwealth 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. 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. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is

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in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of 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 the Commonwealth 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 (a) 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 (b) 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.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

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

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. 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.

14. 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.

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. 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 excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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 subject to the exclusion in subdivision 2 or 14 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 by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of 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 board of visitors of the University of

Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, 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, a local finance board or board of trustees, the board of 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, 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, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

22. Those portions of meetings of the board of visitors of the University of Virginia 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. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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 former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets 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 subject to the exclusion in 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 subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the

information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. 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.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory 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.

§ 11-16.1. Exemption; authorized sports betting.

This chapter shall not apply to any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

§ 18.2-334.3. Exemptions to article; state lottery; sports betting.

Nothing in this article shall apply to ~~any~~*:*

1. Any lottery conducted by the Commonwealth of Virginia pursuant to *Article 1 (§ 58.1-4000 et seq.) of* Chapter 40 of Title 58.1*; or*

2. Any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

§ 37.2-304. Duties of Commissioner.

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

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

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

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

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

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

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death.

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

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

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

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

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

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

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

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

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to subsection B of § 58.1-4038 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing

counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

CHAPTER 40.

VIRGINIA LOTTERY LAW*; SPORTS BETTING.*

Article 1.

Powers and Duties of Virginia Lottery Board; Administration of Tickets and Prizes.

§ 58.1-4000. Short title.

This ~~chapter~~ *article* shall be known and may be cited as the "Virginia Lottery Law."

§ 58.1-4002. Definitions.

~~For the purposes of~~ *As used in* this chapter, *unless the context requires a different meaning*:

"Board" means the Virginia Lottery Board established by this chapter.

"Department" means the independent agency responsible for the administration of the Virginia Lottery ~~created in this chapter~~ *pursuant to this article and sports betting pursuant to Article 2 (§ 58.1-4030 et seq.).*

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from buying lottery tickets or shares and participating in sports betting, as defined in § 58.1-4030, by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery *pursuant to this article and sports betting pursuant to Article 2 (§ 58.1-4030 et seq.)*. The regulations governing the establishment and operation of the lottery *and sports betting* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery *and sports betting* and for the convenience of the purchasers of tickets or shares, ~~and~~ the holders of winning tickets or shares, *and sports bettors*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

2. The price or prices of tickets or shares in the lottery.

3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.

4. The manner of selecting the winning tickets or shares.

5. The manner of payment of prizes to the holders of winning tickets or shares.

6. The frequency of the drawings or selections of winning tickets or shares without limitation.

7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.

8. The method to be used in selling tickets or shares.

9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other

sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 ~~of this chapter~~.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such regulations, the Board shall establish a consumer protection program including measures to protect sports bettors, as defined in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and any other consumer protection measure the Board determines to be reasonable.

15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the Board shall promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the Board shall have the power to accept, modify or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery *and sports betting* throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery *and sports betting* and any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws ~~which~~ *that* may be in effect in other states or countries, (ii) any literature on the subject ~~which~~ *that* may be published or available, (iii) any federal laws ~~which~~ *that* may affect the operation of the lottery *and sports betting*, and (iv) the reaction of Virginia citizens to the potential features of the lottery *and sports betting* with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision *A* 10 ~~of subsection A~~ of this section and subdivision *B* 5 ~~of subsection B~~ of § 58.1-4006 ~~of this chapter~~. *The Board shall hear and decide an appeal of any penalty, denial of a permit or renewal, or suspension or revocation of a permit imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.).*

E. The Board shall have the authority to initiate procedures for the planning, acquisition, and construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is reasonable and customary in the sports betting industry.

§ 58.1-4015.1. Voluntary exclusion program.

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

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from buying lottery tickets or shares and from participating in sports betting, as defined in § 58.1-4030.

2. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program.

3. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Board limited to sales agents and permit holders, as defined in § 58.1-4030, for purposes of enforcement. The Board shall disseminate the list to other parties upon request by the participant and agreement by the Board.

4. Sales agents and permit holders shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude sales agents and permit holders from seeking the payment of a debt incurred by a person before entering the program.

§ 58.1-4027. Judicial review.

The action of the Board in *(i)* granting~~, or in refusing to grant,~~ *or denying a license or registration or* in suspending or revoking any license *or registration* under the provisions of this ~~chapter~~ *article and (ii) granting, denying, suspending, or revoking any permit or imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.)* shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

Article 2.

Sports Betting.

§ 58.1-4030. Definitions.

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise, including bonuses or promotions, paid out as winnings to bettors;

2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to bettors; and

3. If the permit holder is a significant infrastructure limited licensee, as defined in § 59.1-365, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 14 of § 59.1-369.

"College sports" means an athletic event in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permittee from its sports betting operations.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Major league sports franchise" means a professional baseball, basketball, football, or hockey team that is at the highest-level league of play for its respective sport.

"Permit holder" means a person to which the Director issues a permit pursuant to §§ 58.1-4032 and 58.1-4033.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns or other information as may be prescribed by the Board by regulation.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"Prohibited conduct" means any statement, action, or other communication intended to influence, manipulate, or control a betting outcome of a sports event or of any individual occurrence or performance in a sports event in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party. "Prohibited conduct" does not include statements, actions, or communications made or sanctioned by a sports team or sports governing body.

"Sports betting" means placing wagers on professional sports, college sports, sporting events, and any portion thereof, and includes placing wagers related to the individual performance statistics of athletes in such sports and events. "Sports betting" includes any system or method of wagering approved by the Director, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. "Sports betting" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1; or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1.

"Sports betting facility" means a physical facility at which sports betting is conducted.

"Sports betting permit" means a permit to operate a sports betting platform or a permit to operate a sports betting facility issued pursuant to the provisions of §§ 58.1-4032, 58.1-4033, and 58.1-4034.

"Sports betting platform" means a website, app, or other platform accessible via the Internet or mobile, wireless, or similar communications technology that sports bettors use to participate in sports

betting.

"Sports betting program" means the program established by the Board to allow sports betting as described in this article.

"Sports bettor" means a person physically located in Virginia who participates in sports betting.

"Sports event" or "sporting event" means professional sports, college sports, and any athletic event, motor race event, electronic sports event, and competitive video game event.

"Sports governing body" means an organization, headquartered in the United States, that prescribes rules and enforces codes of conduct with respect to a professional sports event and the participants therein. "Sports governing body" includes a designee of the sports governing body.

"Tier 1 bet" means a bet that is placed using the Internet and that is not a tier 2 bet.

"Tier 2 bet" means a bet that is placed using the Internet and that is placed after the event it concerns has started.

"Youth sports" means an athletic event (i) involving a participant under age 18 or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located. However, if an athletic event meets the definition of college sports or professional sports, such event shall not be considered youth sports regardless of the age of the participants.

§ 58.1-4031. Powers and duties of the Director related to sports betting; reporting.

A. The Board shall operate a sports betting program under the direction of the Director, who shall allow applicants to apply for permits to engage in sports betting operations in the Commonwealth. The Board shall regulate such operations. The Department shall not operate a sports betting platform.

B. The Director may:

1. Require bond or other surety satisfactory to the Director from permit holders in such amount as provided in the rules and regulations of the Board adopted under this article;

2. Suspend, revoke, or refuse to renew any permit issued pursuant to this article or the rules and regulations adopted under this article; and

3. Enter into contracts for the operation of the sports betting program, and enter into contracts with other states related to sports betting, provided that a contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

C. The Director shall:

1. Certify monthly to the State Comptroller and the Board a full and complete statement of sports betting revenues and expenses for the previous month;

2. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total sports betting revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of sports betting revenues and expenses, to the Governor and the General Assembly, including recommendations for changes in this article as the Director and Board deem prudent;

3. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this article or the rules and regulations adopted under this article or to rectify undesirable conditions in connection with the administration or operation of the sports betting program; and

4. Provide for the withholding of the applicable amount of state and federal income tax of persons who receive income from sports betting.

D. The Director shall approve methods for sports bettors to fund sports betting accounts, including automated clearing house payments, credit cards, debit cards, wire transfers, and any other method that the Director determines is appropriate for sports betting.

§ 58.1-4032. Applications for sports betting permits; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a fee of $250,000.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and

6. Any other information the Director deems necessary.

C. The chief security officer of the Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. An applicant may apply for a permit to operate a sports betting facility and also apply for a separate permit to operate a sports platform, provided that such applicant pays all associated fees. The Director may issue such permit if he determines the applicant is otherwise qualified.

2. The Director shall issue no fewer than six and no more than 10 permits to operate sports betting platforms to qualified applicants pursuant to this section; however, if a permit is revoked, expires, or otherwise becomes not effective, such permit shall not count against the limit. In issuing permits to operate sports betting platforms, the Director shall (i) issue permits to those applicants that he determines will be best able to meet the duties of a permit holder, as specified in § 58.1-4034, and maximize tax revenue pursuant to § 58.1-4037 and (ii) issue six to 10 permits in an amount that he determines will be most likely to maximize tax revenue collected pursuant to § 58.1-4037.

3. The Director shall issue a permit to operate a sports betting facility only if the applicant (i) is a major league sports franchise, (ii) will conduct sports betting operations at a sports betting facility on which construction began on or after July 1, 2020, and (iii) is otherwise qualified under the provisions of this article.

E. The Director shall make a determination on an application within 60 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

F. The following shall be grounds for denial of a permit or renewal of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 58.1-4034;

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail to disclose information requested by the Director;

5. The applicant or its directors knowingly fail to comply with the provisions of this article or any requirements of the Director;

6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date of the permit application;

7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any other jurisdiction has been suspended or revoked;

8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

9. The applicant's application is incomplete.

G. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable amount.

H. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor.

§ 58.1-4033. Renewals of permits.

A. A permit issued pursuant to § 58.1-4032 shall be valid for three years from the date issued.

B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal application, on forms prescribed by the Director, with a renewal fee of $200,000.

C. The Director may deny a permit renewal if he finds grounds for denial as described in subsection F of § 58.1-4032. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

§ 58.1-4034. Duties of permit holders.

A. A permit holder shall ensure that its sports betting operation takes reasonable measures to:

1. Ensure that only persons physically located in Virginia are able to place bets through its sports betting platform, if applicable;

2. Protect the confidential information of bettors using its sports betting platform or placing bets at its sports betting facility;

3. Prevent betting on events that are prohibited by § 58.1-4039, underage betting as prohibited by § 58.1-4040, and bets by persons who are prohibited from sports betting by § 58.1-4041;

4. Prohibit bets that are resolved using or by reference to personal biometric data;

5. Allow persons to restrict themselves from placing bets with the permit holder, including sharing, at the person's request, his request for self-exclusion with the Department for the sole purpose of disseminating the request to other permit holders;

6. Establish procedures to detect suspicious or illegal betting activity, including measures to immediately report such activity to the Department;

7. Provide for the withholding of the applicable amount of state and federal income tax of persons who receive income from sports betting; and

8. If applicable, allow sports bettors to establish and fund sports betting accounts over the Internet on a sports betting platform, which may be funded through methods including automated clearinghouse payments, credit cards, debit cards, wire transfers, or any other method approved by the Director under § 58.1-4031.

B. A permit holder shall maintain records on:

1. All bets, including the bettor's personal information, the amount and type of bet, the time and location of the bet, and the outcome of the bet; and

2. Suspicious or illegal betting activity.

C. A permit holder shall disclose the records described in subsection B to the Department upon request and shall maintain such records for at least three years after the related sports event occurs.

D. 1. If a sports governing body notifies the Department that real-time information-sharing for bets placed on its sporting events is necessary and desirable, permit holders shall, as soon as is commercially reasonable, share the information required to be retained pursuant to subdivision B 1 of § 58.1-4034 with the sports governing body or its designee with respect to bets on its sporting events. The information shared pursuant to this subsection shall be shared pseudonymously and shall not include personal information associated with any bettor. A permit holder shall not be required to share any information that is required to be kept confidential under federal or Virginia law.

2. A sports governing body shall use information shared pursuant to this subsection only for the purpose of integrity monitoring and shall not use such information for any commercial purpose. A sports governing body shall provide for security measures with respect to such information so as to prevent unauthorized access and distribution.

E. In advertising its sports betting operations, a permit holder shall ensure that its advertisements:

1. Do not target persons under the age of 21;

2. Disclose the identity of the permit holder;

3. Provide information about or links to resources related to gambling addiction; and

4. Are not misleading to a reasonable person.

F. A permit holder shall not sublicense, convey, concede, or otherwise transfer its permit to a third party unless granted approval by the Director. The Director shall charge a fee of $200,000 for a permit transfer.

G. A permit holder is prohibited from holding itself out to the public as a sports betting operation under more than one brand. The permit holder shall conspicuously display its identity to sports bettors.

§ 58.1-4035. Suspension and revocation of permits; civil penalties.

If the Director determines that a permit holder has violated this article, he may, with at least 15 days' notice and a hearing, (i) suspend or revoke the permit holder's permit and (ii) impose a monetary penalty of not more than $1,000 for each violation of this article. The Department shall enforce civil penalties under this section and shall deposit all collected penalties to the general fund. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

§ 58.1-4036. Use of official league data.

A. A permit holder may use any data source for determining the result of a tier 1 bet.

B. A sports governing body may notify the Department that it desires permit holders to use official league data to settle tier 2 bets. A notification under this subsection shall be made according to forms and procedures prescribed by the Director. The Director shall notify each permit holder of the sports governing body's notification within five days after the Department's receipt of the notification. If a sports governing body does not notify the Department of its desire to supply official league data, a permit holder may use any data source for determining the result of a tier 2 bet on a professional sports event of the league governed by the sports governing body.

C. Within 60 days after the Director notifies each permit holder as required under subsection B, permit holders shall use only official league data to determine the results of tier 2 bets on professional sports events of the league governed by the sports governing body, unless any of the following apply:

1. The sports governing body is unable to provide a feed, on commercially reasonable terms, of official league data to determine the results of a tier 2 bets, in which case permit holders may use any data source for determining the results of tier 2 bets until the data feed becomes available on commercially reasonable terms.

2. A permit holder demonstrates to the Department that the sports governing body has not provided or offered to provide a feed of official league data to such permit holder on commercially reasonable

terms, according to criteria identified in subsection D.

D. The Director shall consider the following information in determining whether a sports governing body has provided or offered to provide a feed of official league data on commercially reasonable terms:

1. The availability of a sports governing body's official league data for tier 2 bets from more than one authorized source;

2. Market information regarding the purchase, in Virginia and in other states, by permit holders of data from all authorized sources;

3. The nature and quantity of the data, including the quality and complexity of the process used for collecting the data; and

4. Any other information the Director deems relevant.

E. During any time period in which the Director is determining whether official league data is available on commercially reasonable terms pursuant to the provisions of subsections C and D, a permit holder may use any data source for determining the results of any tier 2 bets. The Director shall make a determination under subsections C and D within 120 days after a permit holder notifies the Department that it desires to demonstrate that a sports governing body has not provided or offered to provide a feed of official league data to the permit holder on commercially reasonable terms.

§ 58.1-4037. Tax on adjusted gross revenue.

A. There shall be imposed a tax of 15 percent on a permit holder's adjusted gross revenue.

B. The tax imposed pursuant to this section is due monthly to the Department, and the permit holder shall remit it on or before the twentieth day of the next succeeding calendar month. If the permit holder's accounting necessitates corrections to a previously remitted tax, the permit holder shall document such corrections when it pays the following month's taxes.

C. If the permit holder's adjusted gross revenue for a month is a negative number, the permit holder may carry over the negative amount to a return filed for a subsequent month and deduct such amount from its tax liability for such month, provided that such amount shall not be carried over and deducted against tax liability in any month that is more than 12 months later than the month in which such amount was accrued.

§ 58.1-4038. Distribution of tax revenue.

A. The Department shall allocate 2.5 percent of the tax revenue collected pursuant to § 58.1-4037 to the Sports Betting Operations Fund established pursuant to § 58.1-4045.

B. The Department shall allocate 2.5 percent of the tax revenue collected pursuant to § 58.1-4037 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

C. The Department shall allocate the remaining 95 percent of the tax revenue collected pursuant to § 58.1-4037 to the Revenue Reserve Fund established pursuant to § 2.2-1831.2.

§ 58.1-4039. Events on which betting is prohibited; penalty.

A. No person shall place or accept a bet on youth sports.

B. 1. A sports governing body may notify the Department that it desires to restrict, limit, or prohibit sports betting on its sporting events by providing notice in accordance with requirements prescribed by the Director. A sports governing body may request to restrict the types of bets that may be offered.

2. For any request made pursuant to subdivision 1, a sports governing body shall bear the burden of establishing to the satisfaction of the Director that the relevant betting or other activity poses a significant and unreasonable integrity risk. The Director shall seek input from affected permit holders before making a determination on such request.

3. If the Director denies a request made pursuant to subdivision 1, the Director shall give the sports governing body notice and the right to be heard and offer proof in opposition to such determination in accordance with regulations established by the Board. If the Director grants a request, the Board shall promulgate by regulation such restrictions, limitations, or prohibitions as may be requested.

3. A permit holder shall not offer or take any bets in violation of regulations promulgated by the Board pursuant to this subsection.

C. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4040. Underage betting prohibited; penalty.

A. No person shall knowingly accept or redeem a sports bet by, or knowingly offer to accept or redeem a sports bet on behalf of, a person under the age of 21 years.

B. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4041. Persons prohibited from sports betting; penalty.

A. The following persons shall be prohibited from sports betting:

1. The Director and any Board member, officer, or employee of the Department;

2. Any permit holder;

3. Any director, officer, owner, or employee of a permit holder and any relative living in the same household as such persons; and

4. Any officer or employee of any entity working directly on a contract with the Department related to sports betting.

B. The persons described in subdivision A 3 shall be prohibited from sports betting only with respect to the related permit holder, but shall not be prohibited from placing sports bets with other permit holders.

C. Any competitor, coach, trainer, employee, or owner of a team in a professional or college sports event, or any referee for a professional or college sports event, shall be prohibited from placing a bet on any event in a league in which such person participates. In determining which persons are prohibited from placing wagers under this subsection, a permit holder shall use publicly available information and any lists of persons that a sports governing body may provide to the Department.

D. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4042. Operation and advertising of unpermitted facilities prohibited; penalty.

A. No person, except for a permit holder authorized pursuant to the provisions of this article, shall make its premises available for placing sports bets using the Internet or advertise that its premises may be used for such purpose.

B. The Director may impose a monetary penalty of for each violation of this section. For a person determined to have made its premises available for placing sports bets using the Internet, the penalty shall not exceed $1,000 per day per individual who places a sports bet. For a person determined to have advertised that its premises may be used for such purpose, the penalty shall not exceed $10,000 per violation.

§ 58.1-4043. Reporting and investigating prohibited conduct.

A. The Department shall establish a hotline or other method of communication that allows any person to confidentially report information about prohibited conduct to the Board.

B. The Department shall investigate all reasonable allegations of prohibited conduct and refer any allegations it deems credible to the appropriate law-enforcement agency.

C. The Department shall maintain the confidentiality of the identity of any reporting person unless such person authorizes disclosure of his identity or until such time as the allegation of prohibited conduct is referred to law enforcement. If an allegation of prohibited conduct is referred to law enforcement, the Department shall disclose a reporting person's identity only to the applicable law-enforcement agency.

D. If the Department receives a complaint of prohibited conduct by an athlete, the Department shall notify the appropriate sports governing body of the athlete to review the complaint.

E. The Department and permit holders shall cooperate with investigations conducted by sports governing bodies or law-enforcement agencies. Such cooperation shall include providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers.

§ 58.1-4044. Required direct notification to the Department and to sports governing bodies.

A. A permit holder shall, as soon as is commercially reasonable, report to the Department any information relating to:

1. Criminal or disciplinary proceedings commenced against the permit holder in connection with its operations;

2. Abnormal betting activity or patterns that may indicate a risk to the integrity of an athletic event;

3. Any potential breach of a sports governing body's rules and codes of conduct pertaining to sports betting, to the extent that such rules and codes of conduct are provided to and known by the permit holder;

4. Any conduct that may alter the outcome of an athletic event for purposes of financial gain, including match fixing; and

5. Suspicious or illegal wagering activities, including using funds derived from illegal activity to place bets, using bets to conceal or launder funds derived from illegal activity, using agents to place bets, and using false identification to place bets.

B. A permit holder shall, as soon as is commercially practicable, report the information described in subdivisions A 2, 3, and 4 to any sports governing body that may be affected by the activities described in subdivisions A 2, 3, and 4.

§ 58.1-4045. Sports Betting Operations Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Sports Betting Operations Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues allocated by the Department under § 58.1-4038 for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Lottery to fund its operations as it relates to the administration and regulation of sports betting pursuant to this article. 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 Board.

§ 58.1-4046. Liquidity pools.

The Board may promulgate rules authorizing permit holders to offset loss and manage risk, directly or with a third party approved by the Director, through the use of a liquidity pool in Virginia or another jurisdiction so long as such permit holder, or an affiliate of such permit holder, is licensed by such jurisdiction to operate a sports betting business. However, a permit holder's use of a liquidity pool shall not eliminate its duty to ensure that it has sufficient funds available to pay bettors.

§ 58.1-4047. Intermediate routing of electronic data.

All sports betting shall be initiated and received within Virginia unless otherwise permitted by federal law. Consistent with the intent of the United States Congress as expressed in the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. § 5361 et seq., the intermediate routing of electronic data relating to lawful intrastate sports betting authorized under this article shall not determine the location in which such bet is initiated and received.

§ 58.1-4048. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.

Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to sports betting under this article. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this article.

§ 59.1-364. Control of racing with pari-mutuel wagering.

A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The Virginia Racing Commission is vested with control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The Virginia Racing Commission shall encourage participation by local individuals and businesses in those activities associated with horse racing.

B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or wagering and entrance to any place where such racing or wagering is conducted is a privilege which 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. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview of § 11-14.

D. This section shall not apply to any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, which shall be regulated pursuant to such chapter.

§ 59.1-569. Fantasy contests conducted under this chapter not illegal gambling.

A. Nothing contained in Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 shall be applicable to a fantasy contest conducted in accordance with this chapter. The award of any prize money for any fantasy contest shall not be deemed to be part of any gaming contract within the purview of § 11-14.

B. This section shall not apply to any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, which shall be regulated pursuant to such chapter.