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**SENATE BILL NO. 960**

Offered January 14, 2020

A *BILL to amend and reenact §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 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 in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056, relating to the Virginia Lottery Board; regulation of the manufacturing, distributing, operating, hosting, and playing of dominant skill video games; penalties.*

Patrons—Ruff and Bell

Referred to Committee on General Laws and Technology

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

1. That §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 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, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056 as follows:

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce

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59 Act or other laws administered by the Surface Transportation Board or the Federal Railroad  
60 Administration with respect to data provided in confidence to the Surface Transportation Board and the  
61 Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to  
62 any wholly owned subsidiary of a public body.

63 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or  
64 proprietary information by any person in connection with a procurement transaction or by any person  
65 who has submitted to a public body an application for prequalification to bid on public construction  
66 projects in accordance with subsection B of § 2.2-4317.

67 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,  
68 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed  
69 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private  
70 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information  
71 was made public prior to or after the execution of an interim or a comprehensive agreement,  
72 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public  
73 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is  
74 documented in writing by the responsible public entity; and

75 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or  
76 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995  
77 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002  
78 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity;  
79 (ii) financial information of the private entity, including balance sheets and financial statements, that are  
80 not generally available to the public through regulatory disclosure or otherwise; or (iii) other information  
81 submitted by the private entity where if such information was made public prior to the execution of an  
82 interim agreement or a comprehensive agreement, the financial interest or bargaining position of the  
83 public or private entity would be adversely affected. In order for the information specified in clauses (i),  
84 (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written  
85 request to the responsible public entity:

86 (1) Invoking such exclusion upon submission of the data or other materials for which protection from  
87 disclosure is sought;

88 (2) Identifying with specificity the data or other materials for which protection is sought; and

89 (3) Stating the reasons why protection is necessary.

90 The responsible public entity shall determine whether the requested exclusion from disclosure is  
91 necessary to protect the trade secrets or financial information of the private entity. To protect other  
92 information submitted by the private entity from disclosure, the responsible public entity shall determine  
93 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement  
94 would adversely affect the financial interest or bargaining position of the public or private entity. The  
95 responsible public entity shall make a written determination of the nature and scope of the protection to  
96 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
97 by the responsible public entity, the information afforded protection under this subdivision shall continue  
98 to be protected from disclosure when in the possession of any affected jurisdiction or affected local  
99 jurisdiction.

100 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to  
101 authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)  
102 information concerning the terms and conditions of any interim or comprehensive agreement, service  
103 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity  
104 and the private entity; (c) information concerning the terms and conditions of any financing arrangement  
105 that involves the use of any public funds; or (d) information concerning the performance of any private  
106 entity developing or operating a qualifying transportation facility or a qualifying project.

107 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"  
108 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation  
109 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined  
110 in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education  
111 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

112 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private  
113 person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a  
114 fund administered in connection with financial assistance rendered or to be rendered by the Virginia  
115 Resources Authority where, if such information were made public, the financial interest of the private  
116 person or entity would be adversely affected.

117 13. Trade secrets or confidential proprietary information that is not generally available to the public  
118 through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)  
119 franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority  
120 pursuant to a promise of confidentiality from the franchising authority, to the extent the information

relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. 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.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this

chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which

protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

*33. Confidential proprietary information or trade secrets, not publicly available, provided to the Virginia Lottery by a manufacturer, distributor, operator, or host of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, such entity shall (i) invoke such exclusion upon submission of the information for which protection from disclosure is sought, (ii) identify the information for which protection is sought, and (iii) state the reason why protection is necessary.*

**§ 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 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

428 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders  
429 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

430 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
431 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement  
432 or emergency service officials concerning actions taken to respond to such matters or a related threat to  
433 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,  
434 where discussion in an open meeting would jeopardize the safety of any person or the security of any  
435 facility, building, structure, information technology system, or software program; or discussion of reports  
436 or plans related to the security of any governmental facility, building or structure, or the safety of  
437 persons using such facility, building or structure.

438 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or  
439 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
440 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
441 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title  
442 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the  
443 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,  
444 holding or disposition of a security or other ownership interest in an entity, where such security or  
445 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that  
446 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of  
447 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia  
448 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or  
449 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such  
450 ownership interest or the future financial performance of the entity, and (ii) would have an adverse  
451 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a  
452 local finance board or board of trustees, the board of visitors of the University of Virginia, or the  
453 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure  
454 of information relating to the identity of any investment held, the amount invested or the present value  
455 of such investment.

456 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
457 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
458 individual child death cases are discussed by a regional or local child fatality review team established  
459 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
460 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
461 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
462 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
463 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
464 meetings in which individual death cases are discussed by overdose fatality review teams established  
465 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are  
466 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

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

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

487 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within  
488 the Department of Health Professions to the extent such discussions identify any practitioner who may  
489 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 license related to dominant skill video games 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; play of authorized dominant skill video games.**

*This chapter shall not apply to the play of dominant skill video games or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.*

**§ 18.2-334.3. Exemptions to article; state lottery.**

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. The play of any dominant skill video games or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

**§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person

674 with a conviction record would be compatible with the nature of the employment under consideration;

675 8. Public or private agencies when authorized or required by federal or state law or interstate  
676 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
677 adult members of that individual's household, with whom the agency is considering placing a child or  
678 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
679 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
680 the data shall not be further disseminated to any party other than a federal or state authority or court as  
681 may be required to comply with an express requirement of law;

682 9. To the extent permitted by federal law or regulation, public service companies as defined in  
683 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
684 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
685 with the nature of the employment under consideration;

686 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
687 travel, including, but not limited to, issuing visas and passports;

688 11. A person requesting a copy of his own criminal history record information as defined in  
689 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
690 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
691 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
692 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
693 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
694 Solvers or Crime Line program as defined in § 15.2-1713.1;

695 12. Administrators and board presidents of and applicants for licensure or registration as a child  
696 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
697 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
698 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved  
699 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,  
700 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction  
701 that the data shall not be further disseminated by the facility or agency to any party other than the data  
702 subject, the Commissioner of Social Services' representative or a federal or state authority or court as  
703 may be required to comply with an express requirement of law for such further dissemination;

704 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
705 offered or who accept public school employment and those current school board employees for whom a  
706 report of arrest has been made pursuant to § 19.2-83.1;

707 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
708 (§ 58.1-4000 et seq.) and *dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of*  
709 *Chapter 40 of Title 58.1*, and the Department of Agriculture and Consumer Services for the conduct of  
710 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

711 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations  
712 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
713 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject  
714 to the limitations set out in subsection E;

715 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
716 investigations of applicants for compensated employment in licensed assisted living facilities and  
717 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

718 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth  
719 in § 4.1-103.1;

720 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
721 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
722 voter registration, limited to any record of felony convictions;

723 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
724 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
725 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

726 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
727 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first  
728 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

729 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
730 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
731 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
732 services;

733 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
734 Department for the purpose of determining an individual's fitness for employment pursuant to  
735 departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

797 38. The State Corporation Commission for the purpose of investigating individuals who are current  
798 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
799 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any  
800 other provision of law, if an application is denied based in whole or in part on information obtained  
801 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the  
802 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or  
803 its designee;

804 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
805 individuals for initial licensure pursuant to § 54.1-2106.1;

806 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
807 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
808 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
809 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

810 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

811 42. The State Treasurer for the purpose of determining whether a person receiving compensation for  
812 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

813 43. The Department of Social Services and directors of local departments of social services for the  
814 purpose of screening individuals seeking to enter into a contract with the Department of Social Services  
815 or a local department of social services for the provision of child care services for which child care  
816 subsidy payments may be provided;

817 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
818 a juvenile's household when completing a predispositional or postdispositional report required by §  
819 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

820 45. Other entities as otherwise provided by law.

821 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
822 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
823 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
824 designated in the order on whom a report has been made under the provisions of this chapter.

825 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
826 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
827 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
828 copy of conviction data covering the person named in the request to the person making the request;  
829 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
830 making of such request. A person receiving a copy of his own conviction data may utilize or further  
831 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
832 subject, the person making the request shall be furnished at his cost a certification to that effect.

833 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
834 section shall be limited to the purposes for which it was given and may not be disseminated further.

835 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
836 history record information for employment or licensing inquiries except as provided by law.

837 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
838 Exchange prior to dissemination of any criminal history record information on offenses required to be  
839 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
840 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
841 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
842 time period. A criminal justice agency to whom a request has been made for the dissemination of  
843 criminal history record information that is required to be reported to the Central Criminal Records  
844 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
845 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
846 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

847 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
848 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
849 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

850 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
851 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
852 for any offense specified in § 63.2-1720.

853 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be  
854 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
855 definition of barrier crime in § 19.2-392.02.

856 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
857 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
858 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in

the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

920 9. To the extent permitted by federal law or regulation, public service companies as defined in  
921 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
922 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
923 with the nature of the employment under consideration;

924 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
925 travel, including, but not limited to, issuing visas and passports;

926 11. A person requesting a copy of his own criminal history record information as defined in  
927 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
928 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
929 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
930 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
931 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
932 Solvers or Crime Line program as defined in § 15.2-1713.1;

933 12. Administrators and board presidents of and applicants for licensure or registration as a child  
934 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
935 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
936 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved  
937 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,  
938 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction  
939 that the data shall not be further disseminated by the facility or agency to any party other than the data  
940 subject, the Commissioner of Social Services' representative or a federal or state authority or court as  
941 may be required to comply with an express requirement of law for such further dissemination;

942 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
943 offered or who accept public school employment and those current school board employees for whom a  
944 report of arrest has been made pursuant to § 19.2-83.1;

945 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
946 (§ 58.1-4000 et seq.) *and dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of*  
947 *Chapter 40 of Title 58.1,* and the Department of Agriculture and Consumer Services for the conduct of  
948 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

949 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations  
950 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
951 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to  
952 the limitations set out in subsection E;

953 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
954 investigations of applicants for compensated employment in licensed assisted living facilities and  
955 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

956 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth  
957 in § 4.1-103.1;

958 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
959 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
960 voter registration, limited to any record of felony convictions;

961 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
962 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
963 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

964 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
965 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first  
966 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

967 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
968 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
969 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
970 services;

971 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
972 Department for the purpose of determining an individual's fitness for employment pursuant to  
973 departmental instructions;

974 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
975 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
976 records information on behalf of such governing boards or administrators pursuant to a written  
977 agreement with the Department of State Police;

978 24. Public institutions of higher education and nonprofit private institutions of higher education for  
979 the purpose of screening individuals who are offered or accept employment;

980 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,  
981 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of



higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating

1043 individuals for initial licensure pursuant to § 54.1-2106.1;

1044 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
1045 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
1046 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
1047 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

1048 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

1049 42. The State Treasurer for the purpose of determining whether a person receiving compensation for  
1050 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

1051 43. The Department of Social Services and directors of local departments of social services for the  
1052 purpose of screening individuals seeking to enter into a contract with the Department of Social Services  
1053 or a local department of social services for the provision of child care services for which child care  
1054 subsidy payments may be provided;

1055 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
1056 a juvenile's household when completing a predispositional or postdispositional report required by §  
1057 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

1058 45. The State Corporation Commission, for the purpose of screening applicants for insurance  
1059 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

1060 46. Other entities as otherwise provided by law.

1061 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
1062 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
1063 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
1064 designated in the order on whom a report has been made under the provisions of this chapter.

1065 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
1066 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
1067 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
1068 copy of conviction data covering the person named in the request to the person making the request;  
1069 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
1070 making of such request. A person receiving a copy of his own conviction data may utilize or further  
1071 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
1072 subject, the person making the request shall be furnished at his cost a certification to that effect.

1073 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
1074 section shall be limited to the purposes for which it was given and may not be disseminated further.

1075 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
1076 history record information for employment or licensing inquiries except as provided by law.

1077 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
1078 Exchange prior to dissemination of any criminal history record information on offenses required to be  
1079 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
1080 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
1081 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
1082 time period. A criminal justice agency to whom a request has been made for the dissemination of  
1083 criminal history record information that is required to be reported to the Central Criminal Records  
1084 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
1085 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
1086 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

1087 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
1088 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
1089 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

1090 F. Criminal history information provided to licensed assisted living facilities and licensed adult day  
1091 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
1092 for any offense specified in § 63.2-1720.

1093 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be  
1094 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
1095 definition of barrier crime in § 19.2-392.02.

1096 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
1097 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the  
1098 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in  
1099 the request to the employer or prospective employer making the request, provided that the person on  
1100 whom the data is being obtained has consented in writing to the making of such request and has  
1101 presented a photo-identification to the employer or prospective employer. In the event no conviction data  
1102 is maintained on the person named in the request, the requesting employer or prospective employer shall  
1103 be furnished at his cost a certification to that effect. The criminal history record search shall be  
1104 conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 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 moneys required to be deposited into the Fund pursuant to subsection A of § 58.1-4049 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; DOMINANT SKILL VIDEO GAMES.

#### 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 this chapter:

"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~~ article and the regulation of dominant skill video games 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.

##### **§ 58.1-4006. Powers of the Director.**

A. The Director shall supervise and administer ~~the~~:

1. The operation of the lottery in accordance with the provisions of this ~~chapter~~ article and with the rules and regulations promulgated hereunder; and

2. The regulation of dominant skill video games in accordance with Article 2 (§ 58.1-4030 et seq.) and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery and the regulation of dominant skill video games; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the regulation of dominant skill video games.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance Committee, House Committee on Finance Committee and House Committee on Appropriations Committee the total lottery revenues, prize disbursements, and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of

lottery revenues, prize disbursements, and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this ~~chapter~~ *article* as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters ~~which~~ *that* require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery *or the regulation of dominant skill video games*.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ *that* he determines will be cost effective and support increased sales of lottery products.

#### **§ 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 the regulation of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.)*. The regulations governing the establishment and operation of the lottery *and the regulation of dominant skill video games* 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 regulation of dominant skill video games* and for the convenience of the purchasers of tickets or shares, ~~and~~ the holders of winning tickets or shares, *and the players of dominant skill video games*. 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 dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.)*.

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 dominant skill video games* 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 *or the regulation of dominant skill video games* 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 *or dominant skill video games*, and (iv) the reaction of Virginia citizens to the potential features of the lottery *or dominant skill video games* 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 also hear and decide an appeal of any penalty, any denial by the Director of a license or renewal, or any suspension or revocation of a license 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.

#### **§ 58.1-4012. Suspension and revocation of licenses.**

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked or refused renewal by the Director for one or more of the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;

4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;

5. Any act of fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the Commonwealth lottery *or the administration and regulation of dominant skill video games*;

6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;

7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter; ~~or~~

8. *Failure to pay any fees or penalties required by this chapter; or*

9. Other factors established by Department regulation.

#### **§ 58.1-4027. Judicial review.**

The action of the Board in ~~(i) granting, or in refusing to grant, in or denying a license or registration or suspending or revoking any license or registration under the provisions of this chapter article and (ii) granting, denying, suspending, or revoking any license 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.*

#### *Dominant Skill Video Games.*

#### **§ 58.1-4030. Definitions.**

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

*"Approved game" means game software that has been approved the Director pursuant to § 58.1-4039.*

"Distributor" means any person that (i) creates and sells or leases approved game software and terminal collection and control software to manufacturer licensees for assembly by such manufacturer into terminals, (ii) sells or leases dominant skill video games to operator licensees, (iii) maintains the dominant skill video games that the distributor provides to operator licensees, and (iv) sells fills to operator licensees.

"Dominant skill video game" means a game system with game software (i) in which the outcome is based on an individual's use of strategy and skill rather than any inherent element of chance; (ii) that requires the use of skill in each play and throughout the course of a session in order for the player to win a prize; (iii) that enables a player to preview the next game outcome without consideration; (iv) that is such that the general public can learn to score and win prizes; and (v) that, in the event that a player utilizes a perfect play strategy, such player has the ability, on every play, to win more prize money than such player spent to initiate a single game play.

"Fill" means a software license renewal that grants additional game plays and is sold by a distributor to an operator. One fill is capable of generating \$10,000 in gross profits.

"Game system" means the combination of game software and the terminal collection and control system that is assembled into a terminal by a manufacturer.

"Host location" means an establishment at which dominant skill video games are placed and offered to the public for play.

"Individual" means a natural person.

"Licensee" means any person holding a manufacturer, distributor, operator, or host location license under this article.

"Manufacturer" means any person who (i) purchases or leases approved game software and terminal collection and control systems from a distributor, (ii) creates game systems by assembling terminals and installing such software into the terminals, and (iii) sells or leases such game systems to operator licensees.

"Gross profits" means all revenue generated from the play of dominant skill video games minus prizes paid out to successful players.

"Operator" means a person that (i) purchases or leases dominant skill video games from distributor licensees, (ii) provides dominant skill video games to host location licensees, (iii) maintains such games, (iv) purchases fills from distributor licensees, (v) sells fills to location host licensees, and (vi) is responsible for on-site data collection and accounting.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Player" means an individual who plays a dominant skill video game.

"Quick response code" or "QR code" means a pattern of black and white squares that form a two-dimensional barcode that is embedded with information and that, when scanned by a scanner or smartphone, provides the information in a visual format.

"Single play" means the period beginning when a player activates and pays for the interactive game play function of a dominant skill video game and ending at the time when the game play function or series of free subgames thereunder will not continue without payment by the player of additional consideration.

"Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

"Successful player" means an individual who wins on one or more plays of a dominant skill video game.

"Terminal" means the video game or other computer device that houses the game software.

"Terminal collection and control system" means a combination of hardware and software components that are not directly connected to the Internet, that are provided by a distributor and installed as part of all game systems, and that monitor all gaming activities and report true and accurate records of the information required by § 58.1-4032.

"Ticket redemption terminal" means a terminal where a bearer scrip dispensed by a dominant skill video game may be redeemed for cash. Such terminals shall only dispense cash after the player seeking to redeem the bearer scrip has validated his age by scanning his state-issued driver's license or identification card.

#### **§ 58.1-4031. Powers and duties of the Director related to dominant skill video games; reporting.**

A. The Director shall have the following additional powers and duties related to the regulation of dominant skill video games:

1. Issue licenses under this article, and supervise all activities licensed under the provisions of this article, including the manufacturing, distributing, operating, hosting, and playing of dominant skill video games.

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

1412 3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of  
1413 any licensee, and compel the production of any books, documents, records, or memoranda of any  
1414 licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied  
1415 with.

1416 4. Order such audits as deemed necessary.

1417 5. Certify monthly to the State Comptroller and the Board a full and complete statement of dominant  
1418 skill video game revenue and expenses for the previous month;

1419 6. Assess and collect civil penalties for violations of this article and Board regulations;

1420 7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate  
1421 Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total  
1422 dominant skill video game revenues and expenses for the previous month and make an annual report,  
1423 which shall include a full and complete statement of dominant skill video game revenues and expenses,  
1424 to the Governor and the General Assembly, including recommendations for changes in this article as the  
1425 Director and Board deem prudent; and

1426 8. Do all acts necessary and advisable to carry out the purposes of this article.

1427 B. The Director may require bond or other surety satisfactory to the Director from license holders in  
1428 such amount as provided in the rules and regulations of the Board adopted under this article;

1429 **§ 58.1-4032. Powers and duties of the Board related to dominant skill video games.**

1430 In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate  
1431 regulations related to dominant skill video games that:

1432 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient  
1433 for the administration of this article;

1434 2. Provide a schedule of application, license, and renewal fees;

1435 3. Establish requirements for all licensees under this article for the form, content, and retention of  
1436 all records and accounts;

1437 4. Establish a process for the approval or disapproval of dominant skill video games and games  
1438 offered on such machines;

1439 5. Require inspections of all licensees at a frequency determined by the Board; and

1440 6. Establish a program of periodic testing and inspection for all dominant skill video games.

1441 **§ 58.1-4033. Licenses that may be granted by the Director.**

1442 The Director may grant the following licenses:

1443 1. Manufacturer license, which shall authorize the licensee to (i) purchase or lease approved game  
1444 software and terminal collection and control systems from a distributor, (ii) create games systems by  
1445 assembling terminals and installing such software and systems into the terminals, and (iii) sell or lease  
1446 such games systems to operator licensees.

1447 2. Distributor license, which shall authorize the licensee to (i) create and sell or lease approved  
1448 game software and terminal collection and control systems to manufacturer licensees for assembly by  
1449 such manufacturer into terminals, (ii) sell or lease dominant skill video games to operator licensees, (iii)  
1450 maintain the dominant skill video games that the distributor provides to operator licensees, and (iv) sell  
1451 fills to operator licensees.

1452 3. Operator license, which shall authorize the licensee to (i) purchase or lease dominant skill video  
1453 games from distributor licensees, (ii) provide dominant skill video games to host location licensees, (iii)  
1454 maintain such games, (iv) purchase fills from distributor licensees, and (v) sell fills to location host  
1455 licensees.

1456 4. Host location licensee, which shall authorize the licensee to allow the placement and offering for  
1457 play by the public of dominant skill video games at such licensee's establishment. The primary business  
1458 of a host location licensee shall not be the offering for play of dominant skill video games. Host  
1459 locations may use fills provided by an operator licensee.

1460 **§ 58.1-4034. General licensing requirements; penalty.**

1461 A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an  
1462 application to the Director on forms provided by the Director, accompanied by the following fees:

1463 1. \$100,000 for a manufacturer license;

1464 2. \$1 million for a distributor license;

1465 3. \$50,000 for an operator license; or

1466 4. \$250 for a host location license.

1467 B. The chief security officer of the Virginia Lottery shall conduct a background investigation, to  
1468 include a Virginia criminal history records search and fingerprinting, that shall be submitted to the  
1469 Federal Bureau of Investigation if the Director deems a national criminal records search is necessary,  
1470 on applicants for licensure pursuant to this article.

1471 C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license  
1472 issued pursuant to this article to any person who has been (i) convicted of a crime involving moral  
1473 turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud



or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in the Lottery and dominant skill video games.

D. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license issued pursuant to this article to a partnership or corporation if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in the Lottery and dominant skill video games.

E. The Director may also refuse to grant a license pursuant to this article if:

1. The Director reasonably believes that the applicant or any general or limited partner, or officer or director of such applicant lacks good character, honesty, or integrity;

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

3. The Director reasonably believes that the applicant will be unable to maintain effective security to prevent violations of this article;

4. The applicant or any general or limited partner or any officer or director of such applicant, knowingly makes a false statement of material fact or deliberately fails to disclose information requested by the Director;

5. The applicant or any general or limited partner or any officer or director of such applicant, knowingly fails to comply with the provisions of this article or any requirements of the Director;

6. The applicant's license to manufacture, distribute, operate, or host a dominant skill video game issued by any other jurisdiction has been suspended or revoked;

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

8. The applicant's application is incomplete.

F. 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. The Director shall revoke the license of a licensee if, subsequent to the issuance of the license, the Director determines that the licensee knowingly or recklessly made a false statement of material fact to the Director in applying for the license.

**§ 58.1-4035. Multiple licenses granted to one person permitted; exceptions; transferability of licenses.**

A. For purposes of this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

B. A person may be issued both a manufacturer license and a distributor license, provided such person meets the requirements for obtaining both licenses and pays all applicable fees associated with each license.

C. A person may be issued both a manufacturer license and an operator license, provided such person meets the requirements for obtaining both licenses and pays all applicable fees associated with each license.

D. No licensee who has been issued a distributor license shall be issued an operator license or host location license, or have any interest in an operator licensee or host location licensee.

E. No licensee who has been issued an operator license shall be issued a host location license, or have any interest in a location operator licensee.

F. Licenses issued pursuant to this article may be sold by the licensee, provided the license is sold to a person permitted to possess such license pursuant to this section and license purchaser otherwise meets all requirements of this article and Board regulations promulgated thereunder.

**§ 58.1-4036. License posting; expiration; renewal.**

A. Each license granted by the Director shall designate the place where the business of the licensee will be carried out.

B. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries out the business for which the license is granted.

C. The privileges conferred by any license granted by the Director shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Director would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Director.

D. The Director may grant licenses for one year or for multiple years, not to exceed three years.

1535 *Qualifications for a multiyear license shall be determined on the basis of criteria established by the*  
1536 *Director. Fees for multiyear licenses shall not be refundable.*

1537 *E. At least 60 days before the expiration of a license, the license holder may submit a renewal*  
1538 *application, on forms prescribed by the Director, along with the following renewal fee:*

1539 *1. \$10,000 for a manufacturer license;*

1540 *2. \$100,000 for a distributor license;*

1541 *3. \$5,000 for an operator license; or*

1542 *4. \$250 for a host location license.*

1543 *The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4034.*

1544 **§ 58.1-4037. Suspension and revocation of licenses; civil penalties; hearing and appeal.**

1545 *A. If the Director determines that any provision of this article, or any regulation or condition of the*  
1546 *Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'*  
1547 *notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed*  
1548 *\$100,000 and (ii) suspend or revoke the license holder's license. If any license or permit is suspended or*  
1549 *revoked, the Director shall state its reasons for doing so, which shall be entered of record.*

1550 *B. Any person aggrieved by a refusal of the Director to issue any license or permit, the suspension*  
1551 *or revocation of a license or permit, the imposition of a fine, or any other action of the Director may*  
1552 *seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative*  
1553 *Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance*  
1554 *with Article 5 of the Administrative Process Act.*

1555 *C. Suspension or revocation of a license or permit by the Director for any violation shall not*  
1556 *preclude criminal liability for such violation.*

1557 **§ 58.1-4038. Requirement for written contract between distributor and associated licensees.**

1558 *A. No manufacturer licensee, operator licensee, or host location licensee may do business with a*  
1559 *distributor licensee unless such manufacturer licensee, operator licensee, or host location licensee has*  
1560 *entered into a written contract with the distributor licensee setting forth the terms and conditions of*  
1561 *their business operations together.*

1562 *B. A copy of the written contract shall be maintained in the business office of both contracting*  
1563 *licensees and shall be available at all times for inspection by the Director.*

1564 *C. The written contract between the distributor licensee and its associated manufacturer, operator,*  
1565 *and host location licensees shall provide for the following allocation of gross profits:*

1566 *1. A host location licensee shall receive 40 percent of the gross profits received from the play of*  
1567 *dominant skill video games placed at its establishment;*

1568 *2. An operator licensee shall receive 40 percent of the gross profits received from the play of*  
1569 *dominant skill video games that it has placed with a host location; and*

1570 *3. The distributor licensee and the manufacturer licensee combined shall receive the remaining 20*  
1571 *percent of the gross profits received from the dominant skill video games that such manufacturer has*  
1572 *manufactured and such distributor has distributed. The distributor licensee and manufacturer licensee*  
1573 *shall agree within the written contract as to the allocation of the gross profits among the two licensees.*

1574 **§ 58.1-4039. Requirements of game software; approval of game software by the Director.**

1575 *A. In addition to meeting the definition of dominant skill video game under this article, game*  
1576 *software shall also be programmed (i) such that winnings may only be provided by the ejection of a*  
1577 *bearer scrip, and not cash; (ii) to expire after gross profits from game play exceed \$10,000; (iv) so that*  
1578 *the maximum price to play an individual game shall not exceed \$5; (v) so that the maximum allowable*  
1579 *winnings for a single play shall not exceed \$5,000; (vi) so that the version of the software or other*  
1580 *identifying nomenclature of the software is easily identifiable and accurate; and (vii) meet such other*  
1581 *requirements that are prescribed by Board regulations.*

1582 *B. No game software shall be installed into a terminal and subsequently offered for play by the*  
1583 *public as a dominant skill video game in the Commonwealth unless such game software has first been*  
1584 *approved by the Director.*

1585 *C. Before selling, leasing, or otherwise distributing game software to a manufacturer for installation*  
1586 *into a game system, a distributor shall provide a prototype or production sample of such software to an*  
1587 *independent testing laboratory, which shall evaluate and certify whether such software meets the*  
1588 *definition of a dominant skill video game under § 58.1-4030 and the requirements of this section.*

1589 *The report of the independent testing laboratory shall be submitted by the distributor to the Director.*  
1590 *The Director shall use the report in evaluating whether the game software shall be approved under this*  
1591 *article.*

1592 *If at any time a distributor makes a substantive change to any game software that has previously*  
1593 *been approved by the Director, such distributor shall resubmit the game software to the Director in a*  
1594 *manner prescribed by Board regulation.*

1595 **§ 58.1-4040. Requirements for terminal collection and control systems.**

1596 *A. Each distributor shall develop a terminal collection and control system that monitors all gaming*

activities and reports true and accurate records of the number of all dominant skill video games placed at host locations in the Commonwealth, the location of all dominant skill video games placed at host locations in the Commonwealth; cash in, payouts, points played, points won, net terminal income, the number of plays of the game, the amounts paid to play the game, the number of fills sold, the amount of revenue derived by fills, all taxes accrued and paid, and any other information required by Board regulations.

B. A terminal collection and control system shall be installed into every dominant skill video game and used by the game's distributor to meet the reporting and tax requirements imposed by this article.

**§ 58.1-4041. Requirements for game systems.**

A. Game systems shall:

1. Be equipped with the ability to accept currency;

2. Distribute winnings by ejection of bearer scrip that shall be redeemable for cash only through a ticket redemption terminal located at the host location where the dominant skill video game is located. Cash shall not be dispensed directly from the game system;

3. Not be connected to directly to the Internet. Game systems may be connected to a local area network (LAN);

4. Have no external data ports or disc drives located outside of a locked area within the terminal, except as may be required by the Director to accommodate inspections by the Director, employees of the Department, or law-enforcement authorities;

5. Be assigned a unique terminal identification number;

6. Have a prominently displayed QR code. Such code shall be capable of being scanned only by the Director, employees of the Department, or law-enforcement authorities, and shall be embedded with the (i) terminal identification number and (ii) name and contact information of the manufacturer, distributor, operator, and assigned location host of the game system;

7. Utilize software fills;

8. Prominently display the rules of play of the game, either on the game system itself or on the game screens; and

9. Be equipped with a terminal collection and control system that meets the requirements of § 58.1-4040.

B. Games systems installed with approved game software shall prominently display the following statement printed in bold print and in a clear and legible fashion: "THIS GAME IS LICENSED BY THE COMMONWEALTH OF VIRGINIA."

**§ 58.1-4042. Inspections.**

The Director, employees of the Department, and law-enforcement authorities shall have the right to inspect at any time any dominant skill video game sold, leased, hosted, or otherwise distributed or possessed by a manufacturer, distributor, operator, or host location licensee for compliance with the provisions of this chapter and Board regulations.

The Director, employees of the Department, or law-enforcement authorities shall be permitted to conduct a field inspection of the game software using instructions provided by the distributor or take possession of the entire dominant skill video game and transport it to a different location to conduct a detailed forensic or laboratory examination.

If the Director, employees of the Department, or law-enforcement authorities determine that such dominant skill video game does not meet the requirements of this chapter or Board regulations, the Director shall have the authority to immediately require that the manufacture, distribution, operation, hosting, and use of such dominant skill video game be immediately discontinued.

**§ 58.1-4043. Requirements of manufacturer licensees.**

A. Manufacturer licensees shall be required to maintain a warehouse facility in the Commonwealth with at least 10,000 square feet of storage space for the storage of dominant skill video games that is secured by an independently monitored security system that is capable of detecting and reporting fires and unauthorized intrusions into the premises.

B. On or before the seventh day of each month, each manufacturer shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number of game systems that it has sold or leased to the distributor during the preceding calendar month;

2. The number of game systems in its inventory that have not been sold or licensed by it to a distributor; and

3. Any additional information required by the distributor from manufacturer licensees according to Board regulations.

**§ 58.1-4044. Requirements of distributor licensees.**

A. Distributor licensees shall be responsible for:

1. Monitoring and managing all market activities of the manufacturer, operator, and host location

licensees with which it has entered into a written contract, and reporting such information as may be required by the Director or Board regulations on behalf of all such licensees;

2. Collecting and remitting the tax owed by it pursuant to § 58.1-4048, as well as the taxes owed by the manufacturer, operator, and host location licensees with which it has entered into a written contract;

3. Employing an internal compliance team composed of individuals with prior law-enforcement experience. Such compliance team shall (i) monitor compliance with and enforce the provisions of the written contracts in existence between the distributor licensee and its associated licensees, including the code of conduct included in each written contract, and (ii) ensure compliance by the distributor and its affiliated businesses with the provisions of this chapter and Board regulations; and

4. Arranging for a yearly independent audit of its business conducted by an independent auditing firm selected by the Director. The cost of such audit shall not exceed \$250,000.

B. On or before the fifteenth day of each month, each distributor shall submit a report to the Director detailing:

1. All revenues derived by the distributor from the sale of fills to operators;

2. All revenues derived by the distributor and its associated licensees from the play of dominant skill video games;

3. Information concerning game play and hardware statistics;

4. Information on the number and location of all dominant skill video games owned by the distributor and its associated licensees; and

5. Any additional information required by Board regulations.

C. By January 30 of each year, each distributor shall submit an annual report to the Director with the following information:

1. The number and terminal identification numbers of all dominant skill video games purchased by the distributor from a manufacturer licensee;

2. The number and type of dominant skill video games that operators placed at host locations;

3. The number, terminal identification number, and type of dominant skill video games that the distributor and each of its associated licensees had in inventory as of December 31;

4. The number of dominant skill video games in operation in each county; and

5. Any additional information required by Board regulations.

Such monthly report shall also include the monthly reports submitted to the distributor by the manufacturer, operator, and host location licensees that are associated with the distributors.

**§ 58.1-4045. Requirements of operator licensees.**

A. Each distributor licensee shall provide each host location to which it provides dominant skill video games with a video camera security system that has been approved by the distributor of the dominant skill video game and that monitors all dominant skill video games that have been placed at such host location. The purpose of such video camera security system shall be to create a safe environment for the public and to provide a visible deterrent against any criminal activity by the public or employees of the host location. The video camera security system shall (i) record all play of dominant skill video games within such location and retain such recordings for a minimum of at least 60 days; (ii) record remotely to a website; (iii) record in color at a frame rate of at least 30 frames per second, and have infrared support for periods of darkness; and (iv) enable the Director, employees of the Department, law-enforcement authorities, and the distributor's compliance team to remotely retrieve and view such recordings.

B. On or before the seventh day of each month, each operator shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number and type of each dominant skill video game that the operator has in its inventory;

2. The number and type of each dominant skill video game that the operator has placed on the premises of host locations;

3. The number of fills that the operator has sold to host locations; and

4. Any additional information required from operator licensees by the distributor or Board regulations.

**§ 58.1-4046. Requirements of host location licensees.**

A. The following locations are eligible to receive a host location license:

1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1;

2. Qualified organizations permitted to conduct charitable gaming pursuant to Chapter 8 (§ 18.2-340.15 et seq.) of Title 18.2; and

3. Truck stops.

As used in this subsection, "truck stop" means an establishment (i) that is equipped with diesel islands used for fueling commercial motor vehicles; (ii) has sold, on average, at least 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months, or is projected to sell an average of at

least 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months; (iii) has parking spaces dedicated to commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than three acres of land that the establishment owns or leases.

B. No more than five dominant skill video games may be located in an establishment listed in subdivision A 1 or 2. No more than 10 dominant skill video games may be located in an establishment listed in subdivision A 3.

C. No host location licensee shall derive more than 50 percent of such location's monthly gross receipts from the play of dominant skill video games.

D. On or before the seventh day of each month, each host location shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number and type of each dominant skill video game that the location host is hosting;

2. The number of fills and amount paid for such fills that the location host has purchased from an operator;

3. The gross profits of each dominant skill video game that the location hosts;

4. The overall gross receipts of the business operated by the location host; and

5. Any additional information required from operator licensees by the distributor or Board regulations.

**§ 58.1-4047. Local regulation of dominant skill video games.**

No locality may approve zoning or land use requirements that restrict or prohibit the placement or use of dominant skill video games in any zoning district that allows the sale of alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1, the sale of lottery tickets or shares pursuant to Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1, or pari-mutuel wagering pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

**§ 58.1-4048. Tax on gross profits.**

A. In addition to any taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, there shall be imposed a tax of 20 percent on all gross profits generated from the play of dominant skill video games and the sale of fills by distributor licensees to operator licensees.

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

**§ 58.1-4049. Distribution of tax revenue.**

A. The Department shall allocate one-half of one percent of the tax revenue collected pursuant to § 58.1-4048 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

B. The Department shall allocate 10 percent of the tax revenue collected pursuant to § 58.1-4048 to the locality in which the revenue was generated. For the purposes of this section, "the locality in which the revenue was generated" means the location of the dominant skill video game at which the revenue subject to tax pursuant to this article was generated.

C. The Department shall allocate 65 percent of the tax revenue collected pursuant to § 58.1-4048 to the Dominant Skill Video Game Education Support Fund established pursuant to § 58.1-4050.

D. The Department shall allocate the remaining 24.5 percent of the tax revenue collected pursuant to § 58.1-4048 to the general fund. From this amount, a sum sufficient shall be appropriated to fund the operations of the Board related to the administration and regulation of dominant skill video games pursuant to this article.

**§ 58.1-4050. Dominant Skill Video Game Education Support Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Dominant Skill Video Game Education Support 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 § 58.1-4049 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 solely for the purpose of public education. 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.

**§ 58.1-4051. Illegal manufacturing, distributing, owning, or operating; penalty.**

A. No person shall:

1. Purchase or lease approved game software and terminal collection and control systems from a distributor; create game systems by assembling terminals and installing such software and systems into the terminals; or sell or lease such game systems to operator licensees without a manufacturer license issued by the Director.

1781 2. Create and sell or lease approved game software and terminal collection and control systems to  
1782 manufacturer licensees for assembly by such manufacturer into terminals; sell or lease dominant skill  
1783 video games to operator licensees; maintain the dominant skill video games that the distributor provides  
1784 to operator licensees; or sell fills to operator licensees without a distributor license issued by the  
1785 Director.

1786 3. Purchase or lease dominant skill video games from distributor licensees; provide dominant skill  
1787 video games to host location licensees; maintain such games; purchase fills from distributor licensees;  
1788 or sell fills to location host licensees without an operator license issued by the Director.

1789 4. Allow the placement and offering for play by the public of dominant skill video games at such  
1790 licensee's establishment without a host location licensee issued by the Director.

1791 B. A violation of this section is a Class 6 felony.

1792 **§ 58.1-4052. Underage play prohibited; penalty.**

1793 No person shall play any dominant skill video game unless such person is 18 years of age or older.

1794 A violation of this section is a Class 1 misdemeanor.

1795 **§ 58.1-4053. Prohibited acts by host location licensees; penalty.**

1796 A. No host location licensee shall:

1797 1. Permit any person who is not 18 years of age or older to play a dominant skill video game;

1798 2. Redeem any bearer scrip for a prize from any person who is not 18 years of age or older;

1799 3. Give any prize for the play of dominant skill video games that is not authorized by this article;

1800 4. Give any prize for the play of dominant skill video games that is redeemable at a location other  
1801 than the host location licensee's premises; or

1802 5. Have on its premises more dominant skill video games than permitted by § 58.1-4046.

1803 B. A violation of this section is a Class 1 misdemeanor.

1804 **§ 58.1-4054. Illegal tampering with dominant skill video games; penalty.**

1805 No person other than an operator licensee shall possess or use any key or device designed for the  
1806 purpose of opening, entering, or affecting the operation of a dominant skill video game or otherwise  
1807 tamper with a dominant skill video game. A violation of this section is a Class 6 felony.

1808 **§ 58.1-4055. Conspiracies and attempts to commit violations; penalty.**

1809 A. Any person who conspires, confederates, or combines with another, either within or outside the  
1810 Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

1811 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal  
1812 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1813 **§ 58.1-4056. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.**

1814 Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to  
1815 dominant skill video games under this article. The Board shall promulgate regulations to interpret and  
1816 clarify the applicability of Article 1 to this article.

1817 2. That the Virginia Lottery Board's initial adoption of regulations necessary to implement the  
1818 provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of  
1819 the Code of Virginia), except that the Virginia Lottery Board shall provide an opportunity for  
1820 public comment on the regulations prior to adoption.

1821 3. That the games of a profit corporation incorporated in the state of Wyoming on November 15,  
1822 2000, that were approved for purposes of compliance with alcoholic beverage control laws and  
1823 regulation by the Deputy Chief of Operations of the Virginia Alcoholic Beverage Control  
1824 Authority's Bureau of Enforcement on July 7, 2017, and that were offered for play by the public  
1825 on March 31, 2019, shall be deemed approved games under § 58.1-4039 of the Code of Virginia, as  
1826 created by this act.

1827 4. That the entity described in the third enactment of this act and any associated manufacturers,  
1828 distributors, operators, and host locations with which such entity had contracted as of January 1,  
1829 2020, may continue to operate after the effective date of this act and shall be eligible to receive a  
1830 provisional license from the Virginia Lottery Board, provided such entities apply to the Board for  
1831 such provisional licenses within 60 days of the effective date of this act. The Board shall issue such  
1832 provisional licenses as soon as practicable, but no later than 90 days after the effective date of this  
1833 act. The Board shall develop and implement a plan to begin issuing licenses to all other applicants  
1834 seeking licensure under § 58.1-4033 of the Code of Virginia, as created by this act, by January 1,  
1835 2021.

1836 5. That the provisions of this act may result in a net increase in periods of imprisonment or  
1837 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
1838 necessary appropriation cannot be determined for periods of imprisonment in state adult  
1839 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia  
1840 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to  
1841 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be  
1842 determined for periods of commitment to the custody of the Department of Juvenile Justice.