

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-3711, as it is currently effective and as it shall become effective, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, and 58.1-4007 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, consisting of sections numbered 58.1-4200 through 58.1-4219; and to repeal § 18.2-334.6 of the Code of Virginia, relating to Virginia Small Business Economic Development Act established; regulation of skill game machines; penalties.

[S 212]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, as it is currently effective and as it shall become effective, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, and 58.1-4007 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 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, consisting of sections numbered 58.1-4200 through 58.1-4219, as follows:

§ 2.2-3711. (Effective until date pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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

57 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
 58 construed to permit the closure of a meeting merely because an attorney representing the public body is
 59 in attendance or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

113 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
 114 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
 115 trustees of a trust established by one or more local public bodies to invest funds for postemployment
 116 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
 117 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the

Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

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

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider

179 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
 180 requested by either of the parties.

181 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
 182 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
 183 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
 184 responsible public entity concerning such records.

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

189 30. Discussion or consideration of grant or loan application information subject to the exclusion in
 190 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

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

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

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

204 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
 205 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
 206 files.

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

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

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

221 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
 222 § 2.2-3705.6 related to economic development.

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

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

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

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

237 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
 238 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
 239 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, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

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 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. 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 any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. *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 any license related to skill game machines 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.

§ 2.2-3711. (Effective pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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 that 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 that 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 State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

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

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

pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

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

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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.

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, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

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 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. 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 any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. *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 any license related to skill game machines 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.

§ 11-16.3. Exemption; play of authorized skill game machines.

This chapter shall not apply to the play of skill game machines or related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 18.2-325. Definitions.

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

"Gambling device" includes:

1. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, that are actually used in an illegal gambling operation or activity; and

2. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled, provided, however, that the return to the user of nothing more than additional chances or the right to

use such machine is not deemed something of value within the meaning of this definition, and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this definition.

"Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision definition and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, 2 of the definition of "gambling device," regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

"Illegal gambling" does not include the playing or offering for play of any skill game machine authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

2. "Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

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

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or the Virginia Lottery Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-334. Exception to article; private residences.

Nothing in this article shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games

of chance and there is no operator as defined in subsection 4 of § 18.2-325.

§ 18.2-334.7. Exemptions to article; skill game machines.

Nothing in this article shall be construed to make it illegal to play any skill game machine or conduct any related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

§ 19.2-389. 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, 4, and 6 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;

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

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

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) ~~and, casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and skill game machines as set forth in Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1,~~ and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

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

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

19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

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

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

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to 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, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, 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, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, 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, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position 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, 37.2-416.1, 37.2-506, 37.2-506.1, 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 Chairman of the Senate Committee on the Judiciary or the Chairman of the House Committee for Courts of Justice 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.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 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, 19, or 26 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 individuals for initial licensure pursuant to § 54.1-2106.1;

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

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

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

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

47. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children; and

48. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 46.

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records

Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

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

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

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the 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.

§ 37.2-314.2. Problem Gambling Treatment and Support Fund.

A. As used in this section:

"Compulsive gambling" means persistent and recurrent problem gambling behavior leading to clinically significant impairment or distress, as indicated by an individual exhibiting four or more of the criteria as defined by the Diagnostic Statistical Manual of Mental Disorders in a 12-month period and where the behavior is not better explained by a manic episode.

"Problem gambling" means a gambling behavior that causes disruptions in any major area of life, including the psychological, social, or vocational areas of life, but does not fulfill the criteria for diagnosis as a gambling disorder.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to subsection A of § 58.1-4038 ~~and~~ moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, *and moneys required to be deposited into the Fund pursuant to subdivision B 1 of § 58.1-4216* 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 compulsive and problem gambling treatment and prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive and problem 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.

§ 58.1-4002. Definitions.

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

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

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to this article and *the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and skill game machines pursuant to Chapter 42 (§ 58.1-4200 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 article.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

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

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4003. Virginia Lottery established.

Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery, which shall include a Director and a the Virginia Lottery Board for the ~~purpose~~ purposes of operating a state lottery and regulating sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and skill game machines pursuant to Chapter 42 (§ 58.1-4200 et seq.).

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer:

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

2. The regulation of sports betting in accordance with Article 2 (§ 58.1-4030 et seq.) and with the rules and regulations promulgated pursuant to this chapter;

3. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.) and with the rules and regulations promulgated pursuant to that chapter; and

4. The regulation of skill game machines in accordance with Chapter 42 (§ 58.1-4200 et seq.) and with the rules and regulations promulgated pursuant to that chapter.

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 sports betting, casino gaming, and skill game machines; 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 sports betting, casino gaming, and skill game machines.

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

6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).

7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.

8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with

Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

11. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.

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

13. 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.

14. 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.

15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations 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, as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

16. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter ~~and~~, Chapter 41 (§ 58.1-4100 et seq.), *and Chapter 42 (§ 58.1-4200 et seq.)*, or the rules and regulations adopted ~~hereunder pursuant to the provisions of such chapters~~, or to rectify undesirable conditions in connection with the administration or operation of the lottery.

17. 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.

18. 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.

19. Participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

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 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~~, sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), *casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.)*, *and skill game machines pursuant to Chapter 42 (§ 58.1-4200 et seq.)*. The regulations governing the establishment and operation of the lottery ~~and~~, sports betting, *casino gaming*, *and skill game machines* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, *casino gaming*, *and skill game machines* and for the convenience of the purchasers of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, *casino gaming patrons*, *and the players of skill game machines*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include 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, including the sale of tickets or shares over the Internet.
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.
13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.
14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such regulations, the Board shall establish a consumer protection program and publish a consumer protection bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and any other consumer protection measure the Board determines to be reasonable.
15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.
- The Department shall not be subject to the provisions of ~~Chapter 43~~ *the Virginia Public Procurement Act* (§ 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 the Virginia Public Procurement Act* and which ensure that departmental procurement will be based on competitive principles.
- The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the Board shall have the power to accept, modify, or reject any revenue projections before such projections are forwarded to the Governor.
- B. The Board shall carry on a continuous study and investigation of the lottery ~~and~~, sports betting, *casino gaming, and skill game machines* throughout the Commonwealth to:
1. Ascertain any defects of this chapter or the regulations issued ~~hereunder~~ *which pursuant to this chapter* that cause abuses in the administration and operation of the lottery ~~and~~, sports betting ~~and~~, *casino gaming, or skill game machines* or any evasions of such provisions.
 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated ~~hereunder~~ *pursuant to this chapter* to prevent such abuses and evasions.
 3. Guard against the use of this chapter and the regulations promulgated ~~hereunder~~ *pursuant to this chapter* 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 that may be in effect in other states or countries; (ii) any literature on the subject that may be published or available; (iii) any federal laws that may affect the operation of the lottery ~~and~~, sports betting, *casino gaming, and skill game machines*; and (iv) the reaction of Virginia citizens to the potential features of the lottery ~~and~~, sports betting, *casino gaming, and skill game machines* 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~~:
1. *Denial* by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 of this section and subdivision B 5 of § 58.1-4006. ~~The Board shall hear and decide an appeal of any penalty;~~
 2. *Penalty*, denial of a permit or renewal, or suspension or revocation of a permit imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.);
 3. *Penalty, denial of a permit or license or renewal, or suspension or revocation of a permit or license imposed by the Director pursuant to Chapter 41 (§ 58.1-4100 et seq.); and*

4. *Penalty, denial by the Director of a license or renewal, or suspension or revocation of a license imposed by the Director pursuant to Chapter 42 (§ 58.1-4200 et seq.).*

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

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

CHAPTER 42.

VIRGINIA SMALL BUSINESS ECONOMIC DEVELOPMENT ACT.

§ 58.1-4200. *Definitions.*

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

"ABC retail licensee" means a person who possesses a valid retail license issued by the Board of Directors of the Virginia Alcoholic Beverage Control Authority and who is in good standing.

"Board" means the Virginia Lottery Board.

"Department" means the Virginia Department of Taxation.

"Distributor" means a person registered with the Board that sells, leases, offers, or provides and distributes skill game machines to an operator for use or play in the Commonwealth.

"Electronic games of chance" means any electronic game of chance that is authorized under the laws of the Commonwealth, including any account-based lottery game authorized under the provisions of Chapter 40 (§ 58.1-4000 et seq.) or Chapter 41 (§ 58.1-4100 et seq.); casino gaming authorized under the provisions of Chapter 41 (§ 58.1-4100 et seq.); charitable gaming, as defined in § 18.2-340.16; pari-mutuel wagering on horse racing, as defined in § 59.1-365; and fantasy contests, as defined in § 59.1-556.

"Establishment" means a person registered with the Board that permits an operator to place and operate skill game machines on the establishment's premises pursuant to this chapter.

"Gross receipts" means all revenue generated from the play of skill game machines minus prizes paid out to players.

"Inducement" means (i) consideration paid, directly or indirectly, from a distributor or operator, or another person on behalf of a distributor or operator, to an establishment, or an employee of the establishment, directly or indirectly, as an enticement to solicit or maintain the establishment's business or (ii) cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of skill game revenue, or other contribution or payment that offsets an establishment's operational costs, or as otherwise determined by the Board.

"Operator" means a person registered with the Board to operate skill game machines by (i) purchasing or leasing skill game machines from a registered distributor, (ii) providing skill game machines to registered establishments, (iii) ensuring payment of prizes to players and collection of skill game machine revenue, and (iv) providing onsite collection of skill game machine data reporting as required by this chapter.

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

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

"Skill game" or "skill game machine" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by the predominant skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" or "skill game machine" includes (i) any device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) any device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily required to play the game. Skill game machines shall be programmed so that the maximum consideration to play is \$5 and the maximum winnings per a single play does not exceed \$5,000.

"Skill game accounting system" means an internal system that tracks and collects information related to the play of skill games to ensure the accurate collection of taxes for the Commonwealth.

"Truck stop" means an establishment that (i) 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.

"Use agreement" means a written agreement conforming to the regulations established by the Board and those minimum requirements set forth in this chapter between the establishment and the operator of the placement, operation, and maintenance of skill game machines at the establishment.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4209 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subsection B of § 58.1-4209 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4201. Powers and duties of the Board related to skill game machines; penalty.

A. The Board shall promulgate regulations governing the ownership, placement, use, and operation of skill game machines and any associated equipment.

B. The Board shall designate three nationally recognized and accredited laboratories to conduct the requisite skill game machine and software evaluation and approval pursuant to the requirements in § 58.1-4208.

C. The Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for registration. The Board may refuse to issue a registration to any person or entity that has engaged in conduct prejudicial to public confidence in the Board or been (i) convicted of a crime involving moral turpitude, (ii) convicted of any form of illegal gambling, or (iii) convicted of a felony. The Board may refuse to grant a registration or may suspend, revoke, or refuse to renew a registration issued pursuant to this chapter to a corporation, limited liability company, or partnership if the Board determines that any officer, director, manager, or general or limited partner has engaged in conduct prejudicial to public confidence in the Board or been (a) convicted of a crime involving moral turpitude, (b) convicted of any form of illegal gambling, or (c) convicted of a felony. Any person that knowingly falsifies, conceals, or misrepresents a material fact or knowingly makes a false, fictitious, or fraudulent statement or representation in any application for registration to the Board is guilty of a Class 1 misdemeanor.

D. The Board shall require that each distributor submit a monthly report detailing the following:

1. The total number of skill game machines provided for play in Virginia by the operator;
2. The address of each location where skill game machines are provided for play by the operator;
3. The total number of skill game machines provided for play by the operator at each respective location;

4. The total amount wagered during the previous month on each skill game machine provided for play by the operator at each establishment where the skill game machine was provided; and

5. The total amount of prizes or winnings awarded during the previous month on each skill game machine provided for play by the operator at each establishment where the skill game machine was provided.

E. The Board shall issue decals for each skill game machine registered pursuant to this chapter bearing the seal of the Commonwealth that include the words "Certified Skill Game Machine" and bear the effective dates of registration. Such decals shall be affixed by the operator on each registered skill game machine provided to each establishment for play.

F. Whenever it appears to the Board that any person has violated any provision of this chapter, the Director may apply to the appropriate circuit court for an injunction against such person. Any order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

G. Whenever the Board has reasonable cause to believe that a violation of this chapter may have occurred, the Board, upon its own motion or upon complaint of any person, may investigate any distributor, operator, or establishment to determine whether such distributor, operator, or establishment has violated the provisions of this chapter.

§ 58.1-4202. Registration of distributors, operators, and establishments required; certification of skill game machines required; recordkeeping; application; application fees.

A. No operator shall place any skill game machine in the Commonwealth without first being registered with the Board. No distributor shall sell, lease, offer, or provide any skill game machine to an operator for use or play in the Commonwealth without first being registered with the Board. No establishment shall offer any skill game machine for play without first being registered with the Board. Applications for registration shall be on forms prescribed by the Board. The Board shall require each distributor that submits an application pursuant to this section to certify that any skill game machine such distributor seeks to sell, lease, offer, or provide for use or play in the Commonwealth has received proper certification from an independent testing laboratory certifying that such skill game machine and any associated equipment aligns with the definition of "skill game" in § 58.1-4200.

1277 B. Every registration submitted pursuant to this chapter shall be accompanied by a nonrefundable
 1278 fee as follows:

1279 1. For initial registration:

1280 a. Distributor: \$500,000;

1281 b. Operator: \$100,000; and

1282 c. Establishment: \$250.

1283 2. For registration renewal:

1284 a. Distributor: \$250,000;

1285 b. Operator: \$10,000; and

1286 c. Establishment: \$100.

1287 C. Each application for registration as a distributor shall be accompanied by a bond with surety for
 1288 \$1 million to be filed with the Board. Each application for registration as an operator shall be
 1289 accompanied by a bond with surety for \$250,000 to be filed with the Board. Such bonds shall be for the
 1290 purpose of covering any indebtedness by such registrants to the Board.

1291 D. No person registered as a distributor shall be eligible to register as an operator or an
 1292 establishment or have any interest in any person registered as an operator or an establishment pursuant
 1293 to the provisions of this chapter.

1294 No person registered as an operator shall be eligible to register as a distributor or an establishment
 1295 or have any interest in any person registered as a distributor or establishment pursuant to the
 1296 provisions of this chapter.

1297 No person registered as an establishment shall be eligible to register as an operator or a distributor
 1298 or have any interest in any person registered as an operator or a distributor pursuant to the provisions
 1299 of this chapter.

1300 E. Each distributor and operator registered pursuant to this chapter shall maintain complete,
 1301 accurate, and separate records for a period of two years of all funds expended for play in each skill
 1302 game machine and all game outcomes, including information sufficient to ensure the collection of the
 1303 tax required by § 58.1-4216. The records shall be available for inspection and copying by the Board
 1304 during reasonable hours. Each skill game machine shall be made available for the Board to conduct
 1305 periodic audits.

1306 **§ 58.1-4203. Suspension or revocation of registration; civil penalty.**

1307 A. After a hearing with 15 days' notice, the Board may suspend or revoke any registration or impose
 1308 on such distributor, operator, or establishment a civil penalty of not more than \$25,000 for each
 1309 violation of this chapter, not to exceed \$100,000, in any case where a violation of this chapter has been
 1310 shown by a preponderance of the evidence.

1311 B. If any such registration is suspended or revoked, the Board shall state its reasons for doing so,
 1312 which shall be entered of record. Such action shall be final unless appealed in accordance with
 1313 § 58.1-4204. Suspension or revocation of a registration issued by the Board for any violation shall not
 1314 preclude civil liability for such violation.

1315 C. All civil penalties shall be paid into the Virginia Small Business Economic Development Fund
 1316 established in § 58.1-4206.

1317 **§ 58.1-4204. Hearing and appeal.**

1318 Any person aggrieved by a denial of the Board to issue a registration, the suspension or revocation
 1319 of a registration, the imposition of any fine or civil penalty, or any other action of the Board may seek
 1320 review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act
 1321 in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5
 1322 of the Administrative Process Act.

1323 **§ 58.1-4205. Registration not endorsement.**

1324 No registered operator shall use or exploit the fact of registration pursuant to this chapter so as to
 1325 lead the public to believe that such registration in any manner constitutes an endorsement or approval
 1326 by the Commonwealth.

1327 **§ 58.1-4206. Virginia Small Business Economic Development Fund.**

1328 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 1329 Small Business Economic Development Fund, referred to in this section as "the Fund." The Fund shall
 1330 be established on the books of the Comptroller. All fees, charges, and civil penalties collected by the
 1331 Board as provided in this chapter shall be paid into the state treasury and credited to the Fund. Interest
 1332 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
 1333 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
 1334 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of financing the
 1335 administration and operation of skill game machines pursuant to the provisions of this chapter.
 1336 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
 1337 by the Comptroller upon written request signed by the Director.

§ 58.1-4207. PreK-12 Priority Fund.

There is hereby created in the state treasury a special permanent, nonreverting, interest-bearing fund to be known as the PreK-12 Priority Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of (i) any gross receipts tax distributed pursuant to subdivision B 6 of § 58.1-4216; (ii) any other moneys appropriated to it by the General Assembly; and (iii) such other sums as may be made available to it from any other source, public or private, all of which shall be credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall remain in the Fund and shall not revert to the general fund. All amounts credited to the Fund shall be used solely for public education purposes in the Commonwealth in accordance with the general appropriation act. 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 Director.

§ 58.1-4208. Approval of skill game machines; submission to Board.

A. No skill game machine shall be offered for play by the public in the Commonwealth unless such skill game machine has first been approved by the Board, consistent with the requirements of this chapter.

B. Before selling, leasing, or otherwise providing a skill game machine to an operator, a distributor shall provide a prototype or production sample of such skill game machine to an independent testing laboratory that has been approved by the Commonwealth, which shall evaluate and certify whether such skill game machine meets the definition of skill game under § 58.1-4200.

C. Along with the prototype or production sample of the skill game machine, the distributor shall provide any additional information concerning the skill game machine necessary for the certification, as determined by the independent testing laboratory.

D. The report of the independent testing laboratory shall be submitted by the distributor to the Board. The Board shall rely on this report in evaluating whether the skill game machine shall be approved pursuant to the provisions of this chapter.

E. If, at any time, a distributor makes a substantive change to any skill game machine that has previously been approved by the Board, such distributor shall resubmit such skill game machine to the Board in a manner prescribed by Board regulations.

F. The distributor shall pay the cost of the independent testing laboratory's review and testing, and the reports of the same shall be delivered to the distributor and the Director.

§ 58.1-4209. Voluntary exclusion program.

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

B. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of Chapter 40 (§ 58.1-4000 et seq.) or Chapter 41 (§ 58.1-4100 et seq.); (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging in any form of casino gaming authorized under the provisions of Chapter 41 (§ 58.1-4100 et seq.); (iv) playing any skill game machine authorized under the provisions of this chapter; (v) participating in charitable gaming, as defined in § 18.2-340.16; (vi) participating in fantasy contests, as defined in § 59.1-556; or (vii) wagering on horse racing, as defined in § 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

C. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

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

E. The name of a person participating in the voluntary exclusion program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, except that dissemination of such information by the Board to the entity that manages its skill game accounting system established pursuant to § 58.1-4215 and any other parties the Department deems necessary for purposes of enforcement shall be allowed. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

§ 58.1-4210. Requirements for establishments; limits on number of skill game machines; advertising; civil penalty.

A. No operator shall locate more than four skill game machines in any ABC retail licensee establishment or more than 10 skill game machines in any truck stop establishment.

B. No establishment shall use the term "casino" in its entity name, in any advertisement in

association with its product or service, or in any manner prohibited by Board regulation. Any establishment that violates the provisions of this subsection shall be subject to a civil penalty of not more than \$50,000. The Director shall enforce the provisions of this subsection. All penalties collected pursuant to this subsection shall accrue to the general fund.

C. In an effort to promote responsible gaming by players, establishments shall:

1. Affix to a clearly visible and conspicuous location on each skill game machine a label that bears a toll-free number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Provide informational leaflets or other similar materials in the gaming area in close proximity to the skill game machines on the dangers associated with problem gambling;

3. If the establishment holds a license from the Virginia Alcoholic Beverage Control Authority to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1, train its employees to identify patrons who have consumed excessive amounts of alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and

4. Comply with any Board regulations regarding player self-exclusion programs that are consistent with, and do not exceed, those applicable to lottery sales.

§ 58.1-4211. Restriction on age of player; attachment of notice to skill game machine; penalty.

A. No person younger than 21 years of age shall be eligible to operate a skill game machine regulated pursuant to this chapter. A distributor shall adhere to the front of all skill game machines a notice in 16-point Times New Roman bold font the following notice: "It is unlawful for any person under the age of 21 to play this game."

B. No establishment registered with the Board shall knowingly allow any person younger than 21 years of age to play any skill game machine or redeem any winnings from the operation of a skill game machine. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

§ 58.1-4212. Inducement prohibited.

A. No distributor or operator shall offer to or otherwise provide any inducement to any establishment.

B. An inducement shall not include costs paid by an operator related to:

1. Costs for structural changes or modular materials or equipment or to maintain the security of the gaming area, the skill game machines, and ticket redemption terminals, provided, however, that any changes costing in excess of \$5,000 may be shared equally between the operator and the establishment or truck stop.

2. Surveillance equipment, alarm systems, and similar equipment or systems intended to monitor and secure the skill game machines, the ticket redemption terminals, and the gaming area.

3. Any wiring or rewiring of the gaming area necessary to operate skill game machines, ticket redemption terminals, or ancillary equipment.

4. Any software updates to the skill game machines or ticket redemption terminals or ongoing maintenance of skill game machines, ticket redemption terminals, network connections, site controllers, chairs, tables, supports, or other ancillary equipment necessary to operate the skill game machines and the ticket redemption terminals in the gaming area.

5. Any requirement established by the Board regarding minimum standards for the operation of skill game machines, ticket redemption terminals, or the gaming area that the Board determines may be paid for, in whole or in part, by the operator.

C. Any person that violates the provisions of this section shall be subject to a civil penalty of up to \$25,000 per offense. The Board may implement additional penalties as deemed necessary, including and up to revocation of any license granted pursuant to the provisions of this chapter.

§ 58.1-4213. Minimum requirements for use agreements between establishment and operator; division of revenue.

A. No operator may place, operate, or maintain skill game machines on the premises of an establishment unless the operator and the establishment have entered into a use agreement that sets forth the terms and conditions for the placement, operation, and maintenance of such machines in compliance with this chapter and the regulations adopted by the Board.

B. A copy of the use agreement shall be maintained in the business office of both the operator and the establishment and shall be available at all times for inspection by the Director. An operator shall file a copy of any such use agreement with the Director within 30 days after the execution of such agreement.

C. The use agreement shall be exclusive between one establishment and one operator.

D. The use agreement shall be valid for a term of not less than three years, and not more than five years.

E. No person other than the operator and establishment that are parties to the use agreement shall receive any portion of gross receipts generated from an establishment's premises, except as approved by

the Director in compliance with applicable regulations adopted by the Board.

F. No operator or any affiliate of any operator shall lease real property to an establishment.

§ 58.1-4214. Minimum requirements of skill game machines.

In addition to meeting the definition of skill game machine established in § 58.1-4200, skill game machines shall:

1. Show the rules of play for each game in a way that adequately describes or displays such information so that a reasonable person could understand the game;

2. Accept only cash payments or tickets generated from skill game machines that may be redeemed for play at another skill game machine located on the same premises;

3. Prohibit the modification of the rules of play for a game, including the probability and award of a game outcome, once a game is initiated;

4. Prohibit the remote modification or manipulation of games, except as required or approved by the Director pursuant to the provisions of this chapter;

5. Have an identification badge affixed to the exterior of the device by the manufacturer that is not removable without leaving evidence of tampering. Such badge shall include the following information:

a. The name of the manufacturer;

b. A unique serial number;

c. The device model number; and

d. The date of manufacture;

6. Contain a skill game accounting system with sufficient memory capacity, as certified by the laboratory software review, to insure regulatory oversight of accurate gross receipts and tax collection as required under this chapter;

7. Have a currency storage area that is secured by locks before the currency can be removed and that is only accessible by the operator;

8. Make payments to successful players by issuing a voucher that can be redeemed for cash at the establishment's ticket redemption terminal;

9. Be connected to the skill game accounting system established and operated by the Department under the provisions of § 58.1-4215; and

10. Have the ability to detect and display the machine's complete play history and winnings for the previous 10 games.

§ 58.1-4215. Requirement for skill game accounting system.

Each skill game machine and ticket redemption terminal being operated in the Commonwealth shall be connected to a skill game accounting system established and operated by the Department. All skill game machines shall automatically disable upon being disconnected from the skill game accounting system. The skill game accounting system shall be laboratory certified as limited to the functions required by this chapter and not requiring any alterations of the features that differentiate skill game machines from electronic games of chance.

The skill game accounting system shall, at a minimum, collect the following information from each device: (i) cash in; (ii) payouts; (iii) points, credits, or amounts played; (iv) points, credits, or amounts won; (v) power failures, disconnections from the skill game accounting system, and malfunctions; (vi) remote activations and disabling; and (vii) any other information solely necessary for the accurate collection of taxation established under this chapter. However, the skill game accounting system shall not be able to control or in any way alter the play of any skill game machine.

The skill game accounting system shall not provide for the monitoring or reading of personal or financial information concerning players of skill game machines.

§ 58.1-4216. Tax on gross receipts; distribution of gross receipts and net revenue.

A. Distributors shall remit to the Department a monthly tax equal to 25 percent of the gross receipts for each skill game machine that such distributor provided for play during the previous month.

B. The Department shall allocate the gross receipts tax collected pursuant to subsection A as follows:

1. Two percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2;

2. Six percent to the Department to cover the costs incurred in administering the provisions of this section and, of the amounts remaining after such allocation to the Department, to the Board for the purposes of implementing this chapter;

3. Fifteen percent to the Department for distribution to the localities in which skill game machines are located;

4. One percent to the law-enforcement agencies that have primary law-enforcement responsibilities in any locality in which skill game machines are located;

5. One percent to the Department of State Police to be used by the Office of the Gaming Enforcement Coordinator established pursuant to § 52-54; and

6. Seventy-five percent to the PreK-12 Priority Fund established pursuant to § 58.1-4207.

C. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days after such funds are collected.

D. Each distributor shall, no later than the twentieth day of the succeeding month, file with the Board on such form prescribed by the Board (i) the total amount of gross receipts generated by each skill game machine that such distributor provided for play during the previous month and (ii) the total amount of the gross receipts tax paid by such distributor to the Department for the preceding month.

§ 58.1-4217. Limited disclosure of information permitted.

Notwithstanding the provisions of § 58.1-3, the Department shall be permitted to disclose information to the Board regarding the tax remitted by any distributor pursuant to this chapter.

§ 58.1-4218. Seizure of unlawful skill game machines; civil penalties.

A. In addition to the penalties provided for in § 58.1-4203, any person or employee of such person who knowingly violates any provision of this chapter shall be liable for a civil penalty of not more than \$25,000 for each such violation. Such amount shall be recovered in a civil action brought by the Board and paid into the Virginia Small Business Economic Development Fund established in § 58.1-4206.

B. In the event that a law-enforcement agency or the Board makes a determination that, other than as expressly provided for in this chapter or otherwise allowed by law, any other skill game machine is placed, exists, or is in operation in any establishment in violation of this chapter or the laws of the Commonwealth, including the operation of more than the maximum number of skill game machines authorized pursuant to § 58.1-4210, the law-enforcement agency or the Board may seize any such device pursuant to § 18.2-331.1, and the distributor, operator, or establishment shall be subject to a civil penalty of not less than \$25,000 nor more than \$100,000 per device.

§ 58.1-4219. Skill game machines operated pursuant to this chapter not illegal gambling.

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

2. That, by January 1, 2027, the Virginia Lottery Board (the Board) shall adopt regulations necessary to implement the provisions of this act. The Board's initial adoption of such regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The Board shall certify in writing to the Virginia Code Commission the date of final adoption of such regulations.

3. That, notwithstanding the provisions of the first enactment of this act to the contrary, until the Virginia Lottery Board (the Board) adopts the regulations necessary to implement the provisions of this act pursuant to the second enactment of this act, the provisions of the first enactment of this act shall be administered by the Virginia Alcoholic Beverage Control Authority (the Authority), which may issue a provisional registration to any entity that provides a laboratory certification from a laboratory approved by the Authority that the game being distributed, operated, or placed in an establishment is a skill game machine as defined in § 58.1-4200 of the Code of Virginia, as created by this act. During the Authority's administration of such provisions, the Authority shall be vested with all powers and duties of the Board that are necessary for such administration of the provisions of the first enactment of this act. The Authority shall adopt regulations for the issuance and administration of any provisional registration that are consistent with the provisions of Chapter 42 (§ 58.1-4200 et seq. of Title 58.1 of the Code of Virginia), as created by this act, with such regulations to be effective on July 15, 2024. The Authority's regulations shall be exempt from the Administrative Process Act (§ 2.2-4200 et seq. of the Code of Virginia), except that the Authority shall provide an opportunity for public comment on the regulations prior to adoption. Each application for a provisional registration shall be accompanied by a provisional registration fee payable to the Authority to defray the costs associated with the implementation, monitoring, monthly reporting, and enforcement associated with provisional registrants. The provisional registration fees shall be as follows: (i) \$500,000 for a distributor; (ii) \$100,000 for an operator; and (iii) \$250 for an establishment. In addition, the Authority may require an annual registration renewal fee after 12 months as follows: (a) \$250,000 for a distributor; (b) \$10,000 for an operator; and (c) \$100 for an establishment. During the time period when the Authority's regulations are effective, it shall receive six percent of the gross receipts tax to further defray the costs associated the implementation, monitoring, monthly reporting, and enforcement associated with provisional registrants. The Authority's regulations for the provisional registrations shall expire upon the final adoption of the regulations adopted by the Board pursuant to the third enactment of this act. Any valid and active provisional registrations issued by the Authority pursuant to this enactment shall remain valid until their expiration date and shall be

considered to have been issued by the Board. Distributing, operating, or hosting any skill game machine at any time between July 1, 2024, and the date upon which the regulations necessary to implement the provisions of this act are adopted by the Board pursuant to the second enactment of this act without obtaining a provisional registration from the Authority pursuant to this enactment may permanently disqualify a person from obtaining a registration from the Board pursuant to the first enactment of this act. Any such disqualification shall be within the sole discretion of the Board. After a hearing with 15 days' notice, the Authority may suspend or revoke any registration or impose on any distributor, operator, or establishment a civil penalty of not more than \$25,000 for each violation of this enactment, not to exceed \$100,000, in any case where a violation has been shown by a preponderance of the evidence. If any such registration is suspended or revoked, the Authority shall state its reasoning for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 58.1-4204 of the Code of Virginia, as created by this act. Suspension or revocation of a registration issued by the Authority for any violation shall not preclude civil liability for such violation. All civil penalties shall be paid to the Authority to defray the costs associated with enforcement. In addition to the aforementioned suspension and revocation of registration and levy of civil penalties, any person or employee of such person who knowingly violates any provision of this enactment shall be liable for a civil penalty of not more than \$25,000 for each such violation. Such amount shall be recovered in a civil action brought by the Authority and paid to Authority to defray the costs associated with enforcement. In the event that a law-enforcement agency or the Authority makes a determination that, other than as expressly provided for in this enactment or otherwise allowed by law, any other skill game machine is placed, exists, or is in operation in any establishment in violation of this enactment or the laws of the Commonwealth, including the operation of more than the maximum number of skill game machines authorized pursuant to this enactment, the law-enforcement agency or the Authority may seize any such device pursuant to § 18.2-331.1 of the Code of Virginia, and the distributor, operator, or establishment shall be subject to a civil penalty of not less than \$25,000 nor more than \$100,000 per machine, which shall be paid to the Authority to defray the costs associated with enforcement.

4. That, notwithstanding the provisions of § 58.1-3 of the Code of Virginia, the Department of Taxation shall disclose information to the Virginia Lottery Board (the Board) and to the Virginia Alcoholic Beverage Control Authority until the Board adopts the regulations necessary to implement the provisions of this act pursuant to the second enactment of this act regarding the tax remitted by any distributor pursuant to § 58.1-4216 of the Code of Virginia, as created by this act.

5. That § 18.2-334.6 of the Code of Virginia is repealed.