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SENATE BILL NO. 307

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 2.2-3711, as it is currently effective and as it may become effective, 18.2-325, 18.2-334, 18.2-334.3, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4012, 58.1-4019.1, and 58.1-4027 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 an article numbered 3, consisting of sections numbered 58.1-4049 through 58.1-4075, relating to the regulation of electronic gaming devices; penalties.

Patron—McPike

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, as it is currently effective and as it may become effective, 18.2-325, 18.2-334, 18.2-334.3, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4012, 58.1-4019.1, and 58.1-4027 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 an article numbered 3, consisting of sections numbered 58.1-4049 through 58.1-4075, 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.

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59 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
60 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
61 construed to permit the closure of a meeting merely because an attorney representing the public body is
62 in attendance or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

116 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
117 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
118 trustees of a trust established by one or more local public bodies to invest funds for postemployment
119 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
120 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

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

184 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
185 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
186 defined in § 33.2-1800, or any independent review panel appointed to review information and advise
187 the responsible public entity concerning such records.

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

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

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

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

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

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

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

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

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

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

224 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
225 § 2.2-3705.6 related to economic development.

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

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

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

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

240 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
241 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
242 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
243 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 electronic gaming devices 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.

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368 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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370 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
371 filed by the member, provided that the member may request in writing that the committee meeting not
372 be conducted in a closed meeting.

373 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
374 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
375 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
376 position of the governing body or the establishment of the terms, conditions and provisions of the siting
377 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
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380 activity and estimating general and nongeneral fund revenues.

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382 subdivision 1 of § 2.2-3705.5.

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390 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or
391 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official
392 renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or
393 safety.

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

402 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
403 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
404 trustees of a trust established by one or more local public bodies to invest funds for postemployment
405 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
406 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
407 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
408 holding, or disposition of a security or other ownership interest in an entity, where such security or
409 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
410 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
411 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
412 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
413 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
414 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
415 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
416 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
417 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
418 of information relating to the identity of any investment held, the amount invested, or the present value
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420 21. Those portions of meetings in which individual child death cases are discussed by the State Child
421 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
422 individual child death cases are discussed by a regional or local child fatality review team established
423 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
424 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
425 which individual adult death cases are discussed by the state Adult Fatality Review Team established
426 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
427 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 electronic gaming devices 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 electronic gaming devices.

This chapter shall not apply to the play of electronic gaming devices or related activity that is lawful under Article 3 (§ 58.1-4049 et seq.) of Chapter 40 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:

1. "Gambling device" includes:

1. 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;

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 subdivision; 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 subdivision; and

3. *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 gambling devices because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

"Gambling device" does not include an electronic gaming device authorized pursuant to the provisions of Article 3 (§ 58.1-4049 et seq.) of Chapter 40 of Title 58.1.

"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.

2. *"Illegal gambling" does not include the playing or offering for play of any electronic gaming device authorized pursuant to the provisions of Article 3 (§ 58.1-4049 et seq.) of Chapter 40 of Title 58.1.*

"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*

674 Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

675 **§ 18.2-334. Exception to article; private residences.**

676 Nothing in this article shall be construed to make it illegal to participate in a game of chance
677 conducted in a private residence, provided such private residence is not commonly used for such games
678 of chance and there is no operator as defined in ~~subsection 4 of~~ § 18.2-325.

679 **§ 18.2-334.3. Exemptions to article.**

680 Nothing in this article shall apply to:

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

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

685 3. *The play of any electronic gaming device or related activity that is lawful under Article 3*
686 *(§ 58.1-4049 et seq.) of Chapter 40 of Title 58.1.*

687 **§ 19.2-389. Dissemination of criminal history record information.**

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

690 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
691 purposes of the administration of criminal justice and the screening of an employment application or
692 review of employment by a criminal justice agency with respect to its own employees or applicants, and
693 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
694 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
695 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
696 purposes of this subdivision, criminal history record information includes information sent to the Central
697 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
698 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
699 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
700 prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
701 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

728 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
729 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
730 position of employment whenever, in the interest of public welfare or safety and as authorized in the
731 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
732 with a conviction record would be compatible with the nature of the employment under consideration;

733 8. Public or private agencies when authorized or required by federal or state law or interstate
734 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
735 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.), *electronic gaming devices as set forth in Article 3 (§ 58.1-4049 et seq.) of Chapter 40 of Title 58.1*, and casino gaming as set forth in Chapter 41 (§ 58.1-4100 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

797 Department for the purpose of determining an individual's fitness for employment pursuant to
798 departmental instructions;

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

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

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

811 26. Executive directors of community services boards or the personnel director serving the
812 community services board for the purpose of determining an individual's fitness for employment,
813 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
814 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
815 under contract with the community services board to serve in a direct care position on behalf of the
816 community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

817 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
818 determining an individual's fitness for employment, approval as a sponsored residential service provider,
819 permission to enter into a shared living arrangement with a person receiving medical assistance services
820 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
821 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
822 37.2-506.1, and 37.2-607;

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

826 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
827 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
828 purpose of determining if any applicant who accepts employment in any direct care position or requests
829 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
830 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
831 under contract with the provider to serve in a direct care position has been convicted of a crime that
832 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
833 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
834 37.2-607;

835 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
836 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
837 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

838 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
839 Committee for Courts of Justice for the purpose of determining if any person being considered for
840 election to any judgeship has been convicted of a crime;

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

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

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

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

853 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
854 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
855 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
856 subject to the restriction that the data shall not be further disseminated by the agency to any party other
857 than a federal or state authority or court as may be required to comply with an express requirement of
858 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, *moneys required to be deposited into the Fund pursuant to subsection A of § 58.1-4068*, and moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (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.), and the regulation of electronic gaming devices pursuant to Article 3 (§ 58.1-4049 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 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 electronic gaming devices pursuant to Article 3 (§ 58.1-4049 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 casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.); and

3. ~~The regulation of electronic gaming devices in accordance with Article 3 (§ 58.1-4049 et seq.) and with the rules and regulations promulgated pursuant to this 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 casino gaming, and the regulation of electronic gaming devices~~; 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 casino gaming, and the regulation of electronic gaming devices.~~

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.) or the rules and regulations adopted ~~hereunder~~ pursuant to *this chapter* or to rectify undesirable conditions in connection with the administration or operation of the lottery *or the regulation of electronic gaming devices*.

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.), *and electronic gaming devices pursuant to Article 3 (§ 58.1-4049 et seq.)*. The regulations governing the establishment and operation of the lottery ~~and~~, sports betting, *and electronic gaming devices* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, *and electronic gaming devices* and for the convenience of the purchasers of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, *and the players of electronic gaming devices*. 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 *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, ~~and electronic gaming devices~~ 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, or electronic gaming devices 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, ~~and electronic gaming devices~~; and (iv) the reaction of Virginia citizens to the potential features of the lottery ~~and~~, sports betting, ~~and electronic gaming devices~~ 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.); ~~and~~

3. *Penalty, denial by the Director of a license or renewal, or suspension or revocation of a license imposed by the Director pursuant to Article 3 (§ 58.1-4049 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

1166 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

1167 F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted
1168 from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is
1169 reasonable and customary in the sports betting industry.

1170 **§ 58.1-4012. Suspension and revocation of licenses.**

1171 The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued
1172 pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without
1173 prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the
1174 Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of
1175 the following reasons:

1176 1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
1177 2. Failure to file a bond if required by the Director or to comply with instructions and rules and
1178 regulations of the Department concerning the licensed activity, especially with regard to the prompt
1179 payment of claims;

1180 3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;

1181 4. Failure to file any return or report, to keep records, or to pay any fees or other charges required
1182 by this chapter;

1183 5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the
1184 Commonwealth lottery *or the administration and regulation of electronic gaming devices*;

1185 6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative
1186 costs and public convenience is adequately served by other licensees;

1187 7. A material change, since issuance of the license, with respect to any matters required to be
1188 considered by the Director under this chapter; or

1189 8. Other factors established by Department regulation.

1190 **§ 58.1-4019.1. License required for "instant ticket" games or contests.**

1191 No person who owns or is employed by any retail establishment in the Commonwealth shall use any
1192 "instant ticket" game or contest for the purpose of promoting or furthering the sale of any product
1193 without first obtaining a license to do so from the Director. For the purposes of this section, an "instant
1194 ticket" game or contest means a game of chance played on a paper ticket or card where (i) a person
1195 may receive gifts, prizes, or gratuities and (ii) winners are determined by preprinted concealed letters,
1196 numbers, or symbols which, when exposed, reveal immediately whether the player has won a prize or
1197 entry into a prize drawing, but shall not include any "instant ticket" game or contest licensed by the
1198 Department of Agriculture and Consumer Services pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of
1199 Title 18.2. The fact that no purchase is required in order to participate shall not exclude such game or
1200 contest from the provisions of this section; however, nothing in this section shall prohibit any retail
1201 establishment from using a ~~Virginia~~ lottery ticket to promote or further the sale of any products except
1202 those having both a federal and state excise tax placed on them. Any person convicted of a violation of
1203 this section shall be guilty of a Class 3 misdemeanor.

1204 **§ 58.1-4027. Judicial review.**

1205 The action of the Board in (i) granting or denying a license or registration or in suspending or
1206 revoking any license or registration under the provisions of this article ~~and~~; (ii) granting, denying,
1207 suspending, or revoking any permit or imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.);
1208 ~~and (iii) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to~~
1209 ~~Article 3 (§ 58.1-4049 et seq.)~~ shall be subject to review in accordance with the provisions of the
1210 Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of
1211 the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal
1212 to the Court of Appeals from any order of the court.

1213 *Article 3.*

1214 *Electronic Gaming Devices.*

1215 **§ 58.1-4049. Definitions.**

1216 *As used in this article, unless the context requires a different meaning:*

1217 *"Distributor" means any person that leases or purchases electronic gaming devices from a*
1218 *manufacturer and sells, leases, or otherwise distributes them to operators. No distributor shall contract*
1219 *directly with a host location.*

1220 *"Electronic gaming device" means a physical terminal, machine, or other device, including electronic*
1221 *or computerized devices, that requires the insertion of a coin, currency, ticket, token, or similar object*
1222 *to operate, activate, or play a game, the outcome of which may be determined in whole or in part by*
1223 *chance or by the skill of the player through the use of a random number generator, and that may*
1224 *deliver or entitle the person playing or operating the device to receive cash in excess of the cost of*
1225 *operating, activating, or playing the game. "Electronic gaming device" does not include any mobile*
1226 *telephone device, charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of*
1227 *Chapter 8 of Title 18.2, sports betting authorized under Article 2 (§ 58.1-4030 et seq.), casino gaming*

authorized under Chapter 41 (§ 58.1-4100 et seq.), or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

"Gaming area" means the area of the host location identified by the operator licensee and approved by the Director in accordance with regulations promulgated by the Board for the placement and operation of electronic gaming devices. The gaming area shall (i) be a separate, enclosed space constructed from modular walls or other similar materials where all electronic gaming devices, redemption terminals, and ancillary equipment necessary for the operation of the electronic gaming devices are located and (ii) provide for a restricted entrance with necessary electronic identification equipment capable of restricting access to the gaming area to persons under 21 years of age.

"Gaming tax" means the tax imposed on gross profits.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes or cash winnings paid out to successful players.

"Host location" means a business establishment at which electronic gaming devices are placed, operated, and offered to the public for play in the gaming area by an operator licensee.

"Independent testing laboratory" means a laboratory selected by the Board with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this article and to otherwise perform the functions assigned to it by this article. No independent testing laboratory shall be owned or controlled by a manufacturer, distributor, operator, or host location licensee or by the Commonwealth.

"Individual" means a natural person.

"Inducement" means anything of value offered, given, transferred, or paid, directly or indirectly, by a manufacturer, supplier, operator, procurement agent, or any employee, agent, contractor, or other person acting on behalf of any manufacturer, supplier, operator, or procurement agent to any host location licensee or any applicant for a host location license pursuant to this article, or to any employee, investor, owner, or officer of a host location licensee or applicant for a host location license as an enticement to solicit, enter into, grant, execute, renew, extend, or maintain a use agreement by and between an operator licensee and a host location licensee, including any cash, incentive, marketing or advertising cost, gift, food, beverage, loan, financing arrangement, prepayment of gross revenue, or any other contribution payment that offsets a host location licensee's capital or operational costs, or as otherwise determined by the Board.

"Inducement" does not include costs paid by an operator licensee related to:

1. Costs for structural changes or modular materials or equipment used to segregate the gaming area and to meet minimum standards for the gaming area as required by the Board or to maintain the security of the gaming area, the electronic gaming devices, and ticket redemption terminals, provided, however, that any changes costing in excess of \$5,000 may be shared equally between the operator licensee and the host location licensee or the applicant for a host location license.

2. Surveillance equipment, alarm systems, and similar equipment or systems intended to monitor and secure the electronic gaming devices, the ticket redemption terminals, and the gaming area and the perimeter of the host location licensee's establishment, and any means of ingress and egress thereto.

3. Any wiring or rewiring of the gaming area necessary to operate electronic gaming devices, ticket redemption terminals, or ancillary equipment.

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

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

"Institutional investor" means a retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, an investment company registered under the federal Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), a collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, a closed-end investment trust, a chartered or licensed life insurance company or property and casualty insurance company, a banking or other chartered or licensed lending institution, an investment advisor registered under the federal Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.), and any such other person as the Board may determine is consistent with this definition.

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

"Manufacturer" means any person that manufactures and sells or leases major components or parts, including software and hardware, for electronic gaming devices to distributors or operators.

1289 *"Operator" means any person that leases or owns electronic gaming devices and operates, maintains,*
1290 *and places such devices at host locations.*

1291 *"Person" means any individual, group of individuals, firm, company, corporation, partnership,*
1292 *business, trust, association, or other legal entity.*

1293 *"Player" means an individual who plays an electronic gaming device.*

1294 *"Procurement agent" means a person licensed by the Board that acts as an agent, either as an*
1295 *employee or as an independent contractor of an operator or operators and shares in the gross profits, is*
1296 *paid a commission, or is otherwise compensated for the purpose of soliciting or procuring a use*
1297 *agreement between an operator licensee and a host location licensee for the placement of an electronic*
1298 *gaming device by the operator at the host location.*

1299 *"Publicly traded corporation" means a person, other than an individual, that (i) has a class or series*
1300 *of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et*
1301 *seq.), (ii) is a registered management company under the Investment Company Act of 1940 (54 Stat.*
1302 *789, 15 U.S.C. § 80a-1 et seq.), or (iii) is subject to the reporting obligations imposed by § 15(d) of*
1303 *the Securities Exchange Act of 1934 by reason of having filed a registration statement that has become*
1304 *effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).*

1305 *"Single play" means the period beginning when a player activates and pays for the interactive*
1306 *gameplay function of an electronic gaming device and ending at the time when the gameplay function or*
1307 *series of free subgames thereunder will not continue without payment by the player of additional*
1308 *consideration.*

1309 *"Subsidiary" means a person, other than an individual, including (i) a corporation, a significant part*
1310 *of whose outstanding equity securities are owned, subject to a power or right of control or held with*
1311 *power to vote, by a holding company or an intermediary company; (ii) a significant interest in a person,*
1312 *other than an individual, that is owned, subject to a power or right of control or held with power to*
1313 *vote, by a holding company or an intermediary company; or (iii) a person deemed to be a subsidiary by*
1314 *the Board.*

1315 *"Successful player" means an individual who wins on one or more plays of an electronic gaming*
1316 *device.*

1317 *"Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming*
1318 *device may be redeemed for cash or a cash equivalent.*

1319 *"Truck stop" means an establishment that (i) is equipped with fuel islands or electrical recharging*
1320 *stations used for the operation of commercial motor vehicles, (ii) has a convenience store, and (iii) is*
1321 *situated on not less than two acres of land that the establishment owns or leases.*

1322 *"Use agreement" means a written agreement conforming to the regulations established by the Board*
1323 *and those minimum requirements set forth in this article between the operator and host location of the*
1324 *placement, operation, and maintenance of electronic gaming devices at the host location.*

1325 **§ 58.1-4050. Powers and duties of the Director related to electronic gaming devices; reporting.**

1326 **A. The Director shall have the following powers and duties related to the regulation of electronic**
1327 **gaming devices:**

1328 **1. Issue licenses under this article and supervise all activities licensed under the provisions of this**
1329 **article, including the manufacture, distribution, operation, hosting, and playing of electronic gaming**
1330 **devices;**

1331 **2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and**
1332 **regulations adopted pursuant to this article;**

1333 **3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of**
1334 **any licensee and compel the production of any books, documents, records, or memoranda of any**
1335 **licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied**
1336 **with;**

1337 **4. Order such audits as deemed necessary;**

1338 **5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic**
1339 **gaming device revenues and expenses for the previous month;**

1340 **6. Assess and collect civil penalties for violations of this article and Board regulations;**

1341 **7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate**
1342 **Committee on Finance and Appropriations, House Committee on Finance, and House Committee on**
1343 **Appropriations the total electronic gaming device revenues and expenses for the previous month and**
1344 **make an annual report, which shall include a full and complete statement of electronic gaming device**
1345 **revenues and expenses, to the Governor and the General Assembly, including recommendations for**
1346 **changes in this article as the Director and Board deem prudent; and**

1347 **8. Do all acts necessary and advisable to carry out the purposes of this article.**

1348 **B. Upon request by the assessing official of a locality, the Director shall provide to such assessing**
1349 **official of such locality a statement of the amount of the gaming tax collected in such locality pursuant**
1350 **to this article from each electronic gaming device, from each host location, and from all electronic**

gaming devices and host locations in the aggregate.

§ 58.1-4051. Powers and duties of the Board related to electronic gaming devices.

In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate regulations related to electronic gaming devices that:

1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient for the administration of this article;
2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the costs of the administration and regulation of electronic gaming devices pursuant to this article;
3. Establish requirements for all licensees under this article for the form, content, and retention of all records and accounts;
4. Establish a process for the approval or disapproval of electronic gaming devices and games offered on such devices;
5. Establish cash handling procedures for operator and host location licensees that require such licensees to keep separate accounts for gaming and nongaming transactions;
6. Require inspections of all licensees at a frequency determined by the Board;
7. Establish a program of periodic testing and inspection for all electronic gaming devices; and
8. Prohibit licensees and their affiliates from advertising or marketing their products and services related to electronic gaming devices. However, (i) licensees shall be allowed to describe their products and services on a website operated and maintained by the licensee and (ii) host location licensees shall be allowed to advertise on one sign located at the host location, provided such sign is no larger than three feet in height by three feet in width.

§ 58.1-4052. Licenses that may be granted by the Director.

A. The Director may grant the following licenses:

1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to distributors and operators major components or parts, including software and hardware, for electronic gaming devices.
2. Distributor license, which shall authorize the licensee to lease or buy electronic gaming devices from a manufacturer and lease, sell, or otherwise distribute them to operators.
3. Operator license, which shall authorize the licensee to (i) buy or lease electronic gaming devices from a manufacturer or distributor, (ii) supply such devices to host locations, and (iii) maintain and service such devices.
4. Host location license, which shall authorize the licensee to allow the placement and offering for play by the public of electronic gaming devices at such licensee's establishment.

B. Notwithstanding the provisions of subsection A, no application or license shall be required by the Director for an institutional investor if the institutional investor holds less than 10 percent of the securities or other ownership interests referred to in a licensee, the securities or interests are publicly traded securities, and its holdings of the securities were purchased for investment purposes only. No application or license shall be required for an institutional investor that holds more than 10 percent of the securities or other ownership interests, so long as such institutional investor files with the Director a certified statement to the effect that it has no intention of influencing or affecting, directly or indirectly, the affairs of the licensee, provided, however, that such institutional investor shall be permitted to vote on matters put to the vote of the outstanding security holders.

§ 58.1-4053. General licensing requirements; penalty.

A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an application to the Director on forms provided by the Director, accompanied by any fees required by the Board.

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

C. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license issued pursuant to this article to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

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

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

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

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

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

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

5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an electronic gaming device issued by any other jurisdiction has been suspended or revoked;

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

7. The applicant's application is incomplete.

F. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the license of a licensee if, subsequent to the issuance of the license, the Director determines that the licensee knowingly or recklessly made a false statement of material fact to the Director in applying for the license.

§ 58.1-4054. License posting; expiration.

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

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

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

D. The Director may grant licenses for one year or for multiple years, not to exceed five years. Qualifications for a multiyear license shall be determined on the basis of criteria established by the Director. Fees for multiyear licenses shall not be refundable.

E. Sixty days before the expiration of a license, the license holder may submit a renewal application on forms prescribed by the Director. The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4053.

§ 58.1-4055. Prohibition against the issuance of multiple licenses to one person.

A. For purposes of this section, "interest" means the direct or indirect ownership of any equity ownership interest or a partial equity ownership interest or any other type of financial interest, including being an investor, shareholder, member, lender, or employee.

B. No licensee that has been issued a manufacturer license or a distributor license shall be issued an operator license or host location license or have any interest in an operator licensee or a host location licensee.

C. A licensee that has been issued a manufacturer license may also be issued a distributor license or have an interest in a distributor licensee. A licensee that has been issued a distributor license may also be issued a manufacturer license or have an interest in a manufacturer licensee.

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

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

§ 58.1-4056. Prohibition against transferring licenses without approval by Director.

No licensee shall transfer its license or assign responsibility for compliance with the conditions of its license to any party, including a transfer of effective control of the licensee, without approval by the Director. No operator licensee shall transfer any electronic gaming device or any interest in a use agreement without approval of the Director.

§ 58.1-4057. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this article or any regulation or condition of the Board has not been complied with or has been violated by a licensee, he may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed

§100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Director shall state his reasons for doing so, which shall be entered of record.

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

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

§ 58.1-4058. Minimum requirements for use agreements between operator licensee and host location licensee; division of revenue; sales agents.

A. No operator licensee may place, operate, or maintain an electronic gaming device on the premises of a host location licensee unless the operator licensee and the host location licensee have entered into a use agreement that sets forth the terms and conditions for the placement, operation, and maintenance of such devices in compliance with this article 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 licensee and the host location licensee and shall be available at all times for inspection by the Director. An operator licensee 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 operator licensee and one host location licensee.

D. The use agreement shall be valid for a term of not less than five years, and not more than 10 years, and shall not contain an automatic renewal clause or any clause requiring the host location licensee to provide notice of such host location licensee's intent to renew or not renew such use agreement.

E. The use agreement shall provide that the amount of gross profit remaining after remittance of the gaming tax to the Director by the operator shall be divided equally between the host location licensee and the operator licensee.

F. No person shall receive any portion of gross profits generated from a host location licensee's premises except for the operator licensee and host location licensee that are parties to the use agreement, except as approved by the Director in compliance with applicable regulations adopted by the Board.

G. Pursuant to a written commission agreement approved by the Board in accordance with regulations adopted by the Board, a procurement agent may be paid a commission for the solicitation and procurement of a use agreement in an amount not to exceed \$5,000 per use agreement for each year that the use agreement is in place between the operator licensee and the host location licensee. The Director is authorized to increase or decrease the amount of such commission by regulation adopted by the Board.

H. No use agreement or any other agreement, contract, or similar instrument regarding the placement, operation, or maintenance of an electronic gaming device shall be valid if entered into or executed by the operator licensee or the host location licensee prior to July 1, 2024.

I. No use agreement regarding the placement, operation, or maintenance of an electronic gaming device shall be valid if entered into and executed by the operator licensee or the host location licensee more than one year before the issuance of a license to the host location.

J. Any provision in a rental agreement between an operator licensee and host location licensee for the placement and operation of electronic gaming devices that directly or indirectly links the rental amount to the amount of gross profit generated by a device or to the play of or amount of revenue generated from a device shall be void and unenforceable.

K. No operator or any affiliate of any operator shall lease real property to a host location licensee.

§ 58.1-4059. Approval of electronic gaming devices by the Director.

A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless such electronic gaming device has first been approved by the Director.

B. Before selling, leasing, or otherwise providing an electronic gaming device to an operator, a manufacturer shall provide a prototype or production sample of such electronic gaming device to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such electronic gaming device meets the definition of electronic gaming device under § 58.1-4049, the requirements of § 58.1-4060, and any other requirements established in Board regulations.

Along with the prototype or production sample of the electronic gaming device, the manufacturer shall provide the following information concerning the electronic gaming device to the independent testing laboratory:

1535 1. The method of determining the game outcome;
1536 2. The available wagering denominations;
1537 3. The minimum wager amount;
1538 4. The maximum wager amount per play, which shall not exceed five dollars;
1539 5. The amount of takeout for each wager;
1540 6. The method of calculating winning payouts;
1541 7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
1542 8. The minimum payouts and the method of guaranteeing minimum payouts; and
1543 9. Any other information requested by the independent testing laboratory or required by the Board
1544 for use in the testing of the electronic gaming device.
1545 C. The report of the independent testing laboratory shall be submitted by the manufacturer to the
1546 Director. The Director shall use the report in evaluating whether the electronic gaming device shall be
1547 approved under this article.
1548 D. If at any time a manufacturer makes a substantive change to any electronic gaming device that
1549 has previously been approved by the Director, such manufacturer shall resubmit the electronic gaming
1550 device to the Director in a manner prescribed by Board regulation.
1551 **§ 58.1-4060. Requirements of electronic gaming devices.**
1552 In addition to meeting the definition of electronic gaming device established in § 58.1-4049,
1553 electronic gaming devices shall:
1554 1. Show the rules of play for each game in a way that adequately describes or displays such
1555 information so that a reasonable person could understand the game prior to placing a wager;
1556 2. Accept only cash wagers or tickets generated from electronic gaming devices that may be
1557 redeemed for play at another electronic gaming device located on the same premises;
1558 3. Prohibit the modification of the rules of play for a game, including the probability and award of a
1559 game outcome, once a game is initiated;
1560 4. Prohibit the remote modification or manipulation of games, except as required or approved by the
1561 Director pursuant to the provisions of this article;
1562 5. Pay out no more than \$1,199 in winnings for a single play of a game, or the maximum amount
1563 allowed by federal law;
1564 6. Have a payout percentage of at least 85 percent;
1565 7. Have a power switch that is located inside of the device to prevent power from being switched off
1566 from outside of the device;
1567 8. Be designed such that power and data cables into and out of the device are routed so that they
1568 are not accessible by the general public;
1569 9. Have an identification badge affixed to the exterior of the device by the manufacturer that is not
1570 removable without leaving evidence of tampering. Such badge shall include the following information:
1571 a. The name of the manufacturer;
1572 b. A unique serial number;
1573 c. The device model number; and
1574 d. The date of manufacture;
1575 10. Be constructed of materials that are designed to allow only authorized access to the interior of
1576 the device. Such materials shall be designed to show evidence of tampering if unauthorized access
1577 occurs;
1578 11. Have seals between the device and the doors of a locked area that are designed to resist the use
1579 of tools or other objects used to breach the locked area by physical force;
1580 12. Have external doors that are locked and monitored by door access sensors;
1581 13. Have a currency storage area that is secured by two locks before the currency can be removed
1582 and that is only accessible by the operator licensee;
1583 14. Make payments to successful players by issuing a voucher that can be redeemed for cash at the
1584 host location's ticket redemption terminal;
1585 15. Have the ability to allow for an independent integrity check by an independent testing laboratory
1586 approved by the Director of all software that may affect the integrity of the game;
1587 16. Be connected to the central control system established and operated by the Department under the
1588 provisions of § 58.1-4062; and
1589 17. Comply with such other requirements as adopted by the Board.
1590 **§ 58.1-4061. Independent integrity checks of electronic gaming devices.**
1591 A prototype or production sample of each type, version, or model of electronic gaming device being
1592 operated in the Commonwealth shall be tested by an independent testing laboratory approved by the
1593 Director to ensure its integrity and proper working order. This evaluation shall include a review of
1594 installed software periodically within a timeframe established by the Director.
1595 The independent testing laboratory's software may be embedded within the game software, utilize an
1596 interface port to communicate with the device, or require the removal of device media for external

verification.

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

§ 58.1-4062. Requirement for central control system.

Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth shall be connected to a central control system established and operated by the Department. All electronic gaming devices shall automatically disable upon being disconnected from the central control system.

The central control 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) gross profit; (vi) the number of plays of the game; (vii) the amounts paid to play the game; (viii) the amount of gaming tax accrued; (ix) door openings; (x) power failures, disconnections from the central control system, and malfunctions; (xi) remote activations and disabling; and (xii) any other information required by Board regulations.

§ 58.1-4063. Requirements of operator licensees.

A. No operator licensee shall own, place, or operate an electronic gaming device unless such device is approved by the Director and has been manufactured by and purchased or leased from a manufacturer licensee or distributor licensee. No contract between a distributor licensee and a manufacturer licensee or between an operator licensee and a manufacturer licensee shall grant the distributor licensee or operator licensee exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming device or ticket redemption terminal in the Commonwealth.

B. No operator licensee shall place or maintain an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host location licensee.

§ 58.1-4064. Requirements of host location licensees.

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

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

2. Truck stops.

B. No more than five electronic gaming devices may be located in an establishment listed in subdivision A 1. No more than 10 electronic gaming devices may be located in an establishment listed in subdivision A 2.

C. No host location licensee shall allow an electronic gaming device to be placed upon the premises of such licensee's establishment unless such device is owned, placed, and maintained by an operator licensee. The primary business of a host location licensee shall not be the offering for play of electronic gaming devices. No host location licensee shall derive more than 50 percent of its annual gross receipts from its share of the gross profits derived from the play of electronic gaming devices at such location.

D. All host location licensees shall comply with the provisions of this article and regulations adopted by the Board.

§ 58.1-4065. Responsible gaming.

A. In an effort to promote responsible gaming by players, host location licensees shall:

1. Post in the gaming area in a conspicuous place a sign 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 on the dangers associated with problem gambling;

3. If the licensee holds a license from the Virginia Alcoholic Beverage Control Authority to serve alcoholic beverages, 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.

B. Nothing contained in this section shall be construed to create any cause of action against the Board or Department for the failure of a host location licensee to comply with the requirements of this section.

§ 58.1-4066. Local regulation of electronic gaming devices.

A. A locality may adopt and enforce a local ordinance prohibiting the manufacture, distribution, operation, hosting, or play of electronic gaming devices within such locality, provided that such ordinance is passed no later than January 1, 2025. If the locality passes such an ordinance and later chooses to allow the manufacture, distribution, operation, hosting, or play of electronic gaming devices within such locality, the locality may pass an ordinance to that effect; however, such locality shall be prohibited from once again passing an ordinance to prohibit any such activities authorized under this article.

1658 B. A locality may adopt and enforce a local ordinance prohibiting the manufacture, distribution,
1659 operation, hosting, or play of electronic gaming devices within the unincorporated area of such locality,
1660 provided that such ordinance is passed no later than January 1, 2025. If a locality passes such an
1661 ordinance and later chooses to allow the manufacture, distribution, operation, hosting, or play of
1662 electronic gaming devices within the unincorporated areas of such locality, the locality may pass an
1663 ordinance to that effect; however, such locality shall thereafter be prohibited from passing any
1664 ordinance to prohibit any activities authorized under this article.

1665 C. No license requirement, license fee, permit fee, sticker fee, or tax shall be imposed by any locality
1666 upon an electronic gaming device manufacturer, distributor, operator, or host location relating to the
1667 ownership, placement, use, or operation of electronic gaming devices or associated equipment.

1668 **§ 58.1-4067. Gaming tax on gross profits.**

1669 A. 1. A gaming tax equal to 34 percent shall be imposed upon all gross profits generated from the
1670 play of electronic gaming devices.

1671 2. The gaming tax imposed pursuant to this section shall not apply to any activity regulated under
1672 Article 2 (§ 58.1-4030 et seq.) or Chapter 41 (§ 58.1-4100 et seq.).

1673 B. The gaming tax imposed pursuant to this section shall be remitted by the operator licensee to the
1674 Department at a frequency established by Board regulations. If the operator licensee's accounting
1675 necessitates corrections to a previously remitted gaming tax, such licensee shall document such
1676 corrections when remitting the next gaming tax installment.

1677 C. The gaming taxes collected by the Department pursuant to this section shall be distributed
1678 pursuant to § 58.1-4068.

1679 D. After the remittance of the gaming tax by the operator, the remaining gross profit shall be divided
1680 equally between the operator and the host location.

1681 **§ 58.1-4068. Distribution of gaming tax revenue.**

1682 A. The Department shall allocate the gaming tax revenue collected pursuant to § 58.1-4067 as
1683 follows:

1684 1. Twenty-six percent to the locality in which the host location operates;

1685 2. One percent to the Problem Gambling Treatment and Support Fund established pursuant to
1686 § 37.2-314.2;

1687 3. Three percent to the Department, from which amount a sum sufficient shall be appropriated to
1688 fund its operations related to the administration and regulation of electronic gaming devices pursuant to
1689 this article; and

1690 4. Seventy percent to the general fund.

1691 B. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days
1692 after such funds are collected, and only after the Department has verified the accuracy of the collected
1693 balances.

1694 **§ 58.1-4069. Illegal manufacture, distribution, or hosting; penalty.**

1695 A. No person shall:

1696 1. Manufacture, sell, or lease to any person electronic gaming devices or major components or parts,
1697 including software and hardware, for electronic gaming devices without a manufacturer license issued
1698 by the Director.

1699 2. Distribute, sell, or lease to any person electronic gaming devices or major components or parts,
1700 including software or hardware, for electronic gaming devices without a distributor license issued by the
1701 Director.

1702 3. Purchase, own, operate, possess, or place in the Commonwealth electronic gaming devices, or
1703 maintain and service such devices without an operator license issued by the Director.

1704 4. Operate an establishment where one or more electronic gaming devices are made available for
1705 play by the public without a host location license issued by the Director.

1706 5. Solicit, offer, or enter into any contract or agreement for the placement of an electronic gaming
1707 device until the operator, host location, and procurement agent, if applicable, are all issued a license by
1708 the Director pursuant to this article.

1709 B. A violation of this section is a Class 6 felony.

1710 **§ 58.1-4070. Underage play prohibited; penalty.**

1711 A. No person shall play any electronic gaming device unless such person is 21 years of age or older.

1712 B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or
1713 older.

1714 C. A violation of this section is a Class 1 misdemeanor.

1715 **§ 58.1-4071. Prohibited acts by host location licensees; penalty.**

1716 A. No host location licensee shall:

1717 1. Permit any person who is not 21 years of age or older to play any electronic gaming device;

1718 2. Give any reward for the play of an electronic gaming device that is not authorized by this article;

1719 3. Give any reward for the play of an electronic gaming device that is redeemable at a location

other than the host location's ticket redemption terminal; or

4. Accept any inducement from an operator licensee.

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

§ 58.1-4072. Illegal tampering with electronic gaming devices; penalty.

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

§ 58.1-4073. Conspiracies and attempts to commit violations; penalty.

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

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

§ 58.1-4074. Exclusion from the applicability of this article.

This article shall not apply to sports betting authorized under Article 2 (§ 58.1-4030 et seq.) or casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.).

§ 58.1-4075. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply mutatis mutandis.

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

2. That the initial adoption by the Virginia Lottery Board (the Board) of regulations necessary to implement the provisions of this act 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.

3. That the initial procurement by the Virginia Lottery of the central control system required by § 58.1-4062 of the Code of Virginia, as created by this act, shall be exempt from the departmental procurement regulations promulgated by the Virginia Lottery Board pursuant to § 58.1-4007 of the Code of Virginia, as amended by this act.

4. That, notwithstanding the provisions of the first enactment of this act to the contrary, until (i) 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 and (ii) the central control system required by § 58.1-4062 of the Code of Virginia, as created by this act, is operational, the Director of the Virginia Lottery (the Director) (the Department) may issue a provisional license under the first enactment of this act to any entity that is duly licensed to engage in the manufacture, distribution, operation, or hosting of any electronic gaming device in another state on July 1, 2024. The Board shall establish procedures for the issuance of provisional licenses. The granting of a provisional license pursuant to this enactment shall not entitle such license holder to the automatic granting of a license pursuant to the first enactment of this act. Holders of provisional licenses pursuant to this enactment shall self-report the information required by § 58.1-4062 of the Code of Virginia, as created by this act, to the Department pursuant to procedures established by the Board. Manufacturing, distributing, operating, or hosting any electronic gaming device at any time between July 1, 2024, and the date upon which (a) the regulations necessary to implement the provisions of this act are adopted and (b) the central control system is operational without obtaining a provisional license pursuant to this enactment or failure to self-report the information required by this enactment may permanently disqualify a person from obtaining a license pursuant to the first enactment of this act. Any such disqualifications shall be within the sole discretion of the Director.

5. That any contract, or portion of a contract, entered into prior to July 1, 2024, that does not comply with the provisions of this act shall be void.

6. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.