

LD2814312

**HOUSE BILL NO. 2400**

Offered January 23, 1995

*A BILL to amend and reenact §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-342, 4.1-128, 4.1-209, 4.1-210, 4.1-231, 4.1-233, 4.1-325, and 9-6.25:3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1; by adding sections numbered 18.2-334.5, 22.1-88.1, 58.1-3732.1:1 and 59.1-368.1; and by adding in Title 59.1 a chapter numbered 29.1, consisting of articles numbered 1 through 8, containing sections numbered 59.1-405.1 through 59.1-405.38, relating to the creation of the Economic Development and Riverboat Gaming Act of 1995, including the creation of the Virginia Riverboat Gaming Commission with riverboat gaming; appropriations; penalties.*

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Patrons—Jones, J.C.; Senator: Walker

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Referred to Committee on General Laws

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

**1. That §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-342, 4.1-128, 4.1-209, 4.1-210, 4.1-231, 4.1-233, 4.1-325, and 9-6.25:3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1; by adding sections numbered 18.2-334.5, 58.1-3732.1:1, and 59.1-368.1; and by adding in Title 59.1 a chapter numbered 29.1, consisting of articles numbered 1 through 8, containing sections numbered 59.1-405.1 through 59.1-405.38, as follows:**

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or enabling legislation of the entities:

**Authorities**

Richmond Eye and Ear Hospital Authority.  
 Small Business Financing Authority.  
 State Education Assistance Authority.  
 Virginia Agriculture Development Authority.  
 Virginia College Building Authority.  
 Virginia Education Loan Authority.  
 Virginia Housing Development Authority.  
 Virginia Innovative Technology Authority.  
 Virginia Port Authority.  
 Virginia Public Building Authority.  
 Virginia Public School Authority.  
 Virginia Resources Authority.  
 Virginia Student Assistance Authorities.

**Boards**

Board of Commissioners, Virginia Agriculture Development Authority.  
 Board of Commissioners, Virginia Port Authority.  
 Board of Directors, Richmond Eye and Ear Hospital Authority.  
 Board of Directors, Small Business Financing Authority.  
 Board of Directors, Virginia Student Assistance Authorities.  
 Board of Directors, Virginia Innovative Technology Authority.  
 Board of Directors, Virginia Resources Authority.  
 Board of Regents, Gunston Hall Plantation.  
 Board of Regents, James Monroe Memorial Law Office and Library.  
 Board of Trustees, Family and Children's Trust Fund.  
 Board of Trustees, Frontier Culture Museum of Virginia.  
 Board of Trustees, Jamestown-Yorktown Foundation.  
 Board of Trustees, Miller School of Albemarle.  
 Board of Trustees, Rural Virginia Development Foundation.  
 Board of Trustees, The Science Museum of Virginia.  
 Board of Trustees, Virginia Museum of Fine Arts.  
 Board of Trustees, Virginia Museum of Natural History.  
 Board of Trustees, Virginia Outdoor Foundation.  
 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.

INTRODUCED

HB2400

60	Board of Visitors, Christopher Newport University.	
61	Board of Visitors, The College of William and Mary in Virginia.	
62	Board of Visitors, George Mason University.	
63	Board of Visitors, Gunston Hall Plantation.	
64	Board of Visitors, James Madison University.	
65	Board of Visitors, Longwood College.	
66	Board of Visitors, Mary Washington College.	
67	Board of Visitors to Mount Vernon.	
68	Board of Visitors, Norfolk State University.	
69	Board of Visitors, Old Dominion University.	
70	Board of Visitors, Radford University.	
71	Board of Visitors, University of Virginia.	
72	Board of Visitors, Virginia Commonwealth University.	
73	Board of Visitors, Virginia Military Institute.	
74	Board of Visitors, Virginia Polytechnic Institute and State University.	
75	Board of Visitors, Virginia State University.	
76	Governing Board, Virginia College Building Authority.	
77	Governing Board, Virginia Public School Authority.	
78	Library Board, The Library of Virginia.	
79	State Board for Community Colleges, Virginia Community College System.	
80	Commissions	
81	Alexandria Historical Restoration and Preservation Commission.	
82	Chesapeake Bay Bridge and Tunnel Commission.	
83	Hampton Roads Sanitation District Commission.	
84	<i>Virginia Riverboat Gaming Commission.</i>	
85	Districts	
86	Chesapeake Bay Bridge and Tunnel District.	
87	Hampton Roads Sanitation District.	
88	Educational Institutions	
89	Christopher Newport University.	
90	College of William and Mary in Virginia.	
91	Frontier Culture Museum of Virginia.	
92	George Mason University.	
93	James Madison University.	
94	Jamestown-Yorktown Foundation.	
95	Longwood College.	
96	Mary Washington College.	
97	Miller School of Albemarle.	
98	Norfolk State University.	
99	Old Dominion University.	
100	Radford University.	
101	The Science Museum of Virginia.	
102	University of Virginia.	
103	Virginia Commonwealth University.	
104	Virginia Community College System.	
105	Virginia Military Institute.	
106	Virginia Museum of Fine Arts.	
107	Virginia Polytechnic Institute and State University.	
108	The Library of Virginia.	
109	Virginia State University.	
110	Foundations	
111	Chippokes Plantation Farm Foundation.	
112	Rural Virginia Development Foundation.	
113	Virginia Conservation and Recreation Foundation.	
114	Virginia Historic Preservation Foundation.	
115	Virginia Outdoor Foundation.	
116	Museum	
117	Virginia Museum of Natural History.	
118	Plantation	
119	Gunston Hall Plantation.	
120	System	
121	Virginia Retirement System.	

§ 2.1-1.9. Commissions.  
 Notwithstanding the definition for "commission" as provided in § 2.1-1.2, the following entities shall be referred to as commissions:  
 Commission on Local Government  
 Marine Resources Commission  
 Milk Commission  
 Virginia Commission for the Arts  
 Virginia Employment Commission-  
*Virginia Riverboat Gaming Commission.*  
 § 2.1-20.4. Bodies receiving compensation.  
 A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be those which receive compensation from state funds pursuant to § 2.1-20.3:  
 Accountancy, Board for  
 Agriculture and Consumer Services, Board of  
 Air Pollution Control Board, State  
 Airports Authority, Virginia  
 Apprenticeship Council  
 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for  
 Athletic Board, Virginia  
 Auctioneers Board  
 Audiology and Speech-Language Pathology, Board of  
 Aviation Board, Virginia  
 Barbers, Board for  
 Branch Pilots, Board for  
 Building Code Technical Review Board, State  
 Chesapeake Bay Local Assistance Board  
 Child Day Care and Early Childhood Programs, Virginia Council on  
 Coal Mining Examiners, Board of  
 College Building Authority  
 Commonwealth Transportation Board  
 Conservation and Development of Public Beaches, Board on  
 Conservation and Recreation, Board of  
 Contractors, Board for  
 Correctional Education, Board of  
 Corrections, Board of  
 Cosmetology, Board for  
 Criminal Justice Services Board  
 Deaf and Hard-of-Hearing, Advisory Board for the  
 Dentistry, Board of  
 Education, State Board of  
 Education Loan Authority, Virginia - Board of Directors  
 Elections, State Board of  
 Environment, Council on the  
 Fire Services Board, Virginia  
 Funeral Directors and Embalmers, Board of  
 Game and Inland Fisheries, Board of  
 Geology, Board for  
 Health, State Board of  
 Health Professions, Board of  
 Hearing Aid Specialists, Board for  
 Higher Education, State Council of  
 Historic Resources, Board of  
 Housing and Community Development, Board of  
 Information Management, Council on  
 Marine Resources Commission  
 Medical Assistance Services, Board of  
 Medical Complaint Investigation Committee  
 Medicine, Board of  
 Mental Health, Mental Retardation and Substance Abuse Services Board, State  
 Milk Commission  
 Mineral Mining Examiners, Board of

183 Nursing, Board of  
184 Nursing Home Administrators, Board of  
185 Occupational Therapy, Advisory Board on  
186 Oil and Gas Conservation Board, Virginia  
187 Opticians, Board for  
188 Optometry, Board of  
189 Pesticide Control Board  
190 Pharmacy, Board of  
191 Physical Therapy, Advisory Board on  
192 Port Authority, Board of Commissioners of the Virginia  
193 Professional and Occupational Regulation, Board for  
194 Professional Counselors, Board of  
195 Professional Soil Scientists, Board for  
196 Psychology, Board of  
197 Public Defender Commission  
198 Public School Authority, Virginia  
199 Purchases and Supply Appeals Board  
200 Real Estate Appraiser Board  
201 Real Estate Board  
202 Recreation Specialists, Board of  
203 Rehabilitative Services, Board of  
204 Respiratory Therapy, Advisory Board on  
205 Safety and Health Codes Board  
206 Seed Potato Board  
207 Social Services, Board of  
208 Social Work, Board of  
209 State Health Department Sewage Handling and Disposal Appeal Review Board  
210 Substance Abuse Certification Board  
211 Surface Mining Review, Board of  
212 Treasury Board  
213 Veterans' Affairs, Board on  
214 Veterinary Medicine, Board of  
215 Virginia Board for Asbestos Licensing  
216 Virginia Health Planning Board  
217 Virginia Manufactured Housing Board  
218 *Virginia Riverboat Gaming Commission*  
219 Virginia Veterans Care Center Board of Trustees  
220 Virginia Waste Management Board  
221 Visually Handicapped, Virginia Board for the  
222 Waste Management Facility Operators, Board for  
223 Water Control Board, State  
224 Waterworks and Wastewater Works Operators, Board for  
225 Well Review Board, Virginia  
226 Youth and Family Services, State Board of.

227 B. Individual members of boards, commissions, committees, councils, and other similar bodies  
228 appointed at the state level and receiving compensation for their services on January 1, 1980, but who  
229 will not receive compensation under the provisions of this article, shall continue to receive compensation  
230 at the January 1, 1980, rate until such member's current term expires.

231 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding  
232 to request; charges; exceptions to application of chapter.

233 A. Except as otherwise specifically provided by law, all official records shall be open to inspection  
234 and copying by any citizens of this Commonwealth during the regular office hours of the custodian of  
235 such records. Access to such records shall not be denied to citizens of this Commonwealth,  
236 representatives of newspapers and magazines with circulation in this Commonwealth, and representatives  
237 of radio and television stations broadcasting in or into this Commonwealth. The custodian of such  
238 records shall take all necessary precautions for their preservation and safekeeping. Any public body  
239 covered under the provisions of this chapter shall make an initial response to citizens requesting records  
240 open to inspection within five work days after the receipt of the request by the public body which is the  
241 custodian of the requested records. Such citizen request shall designate the requested records with  
242 reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall  
243 not be necessary to invoke the provisions of this chapter and the time limits for response by the public  
244 body. The response by the public body within such five work days shall be one of the following

responses:

1. The requested records shall be provided to the requesting citizen.

2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.

3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records; however, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in this Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions

306 of this chapter.

307 Criminal incident information relating to felony offenses shall not be excluded from the provisions of  
308 this chapter; however, where the release of criminal incident information is likely to jeopardize an  
309 ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection,  
310 or result in the destruction of evidence, such information may be withheld until the above-referenced  
311 damage is no longer likely to occur from release of the information.

312 2. Confidential records of all investigations of applications for licenses and permits, and all licensees  
313 and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery  
314 Department ~~or~~, the Virginia Racing Commission, *or the Virginia Riverboat Gaming Commission*.

315 3. State income, business, and estate tax returns, personal property tax returns, scholastic records and  
316 personnel records containing information concerning identifiable individuals, except that such access  
317 shall not be denied to the person who is the subject thereof, and medical and mental records, except that  
318 such records can be personally reviewed by the subject person or a physician of the subject person's  
319 choice; however, the subject person's mental records may not be personally reviewed by such person  
320 when the subject person's treating physician has made a part of such person's records a written statement  
321 that in his opinion a review of such records by the subject person would be injurious to the subject  
322 person's physical or mental health or well-being.

323 Where the person who is the subject of medical records is confined in a state or local correctional  
324 facility, the administrator or chief medical officer of such facility may assert such confined person's right  
325 of access to the medical records if the administrator or chief medical officer has reasonable cause to  
326 believe that such confined person has an infectious disease or other medical condition from which other  
327 persons so confined need to be protected. Medical records shall be reviewed only and shall not be  
328 copied by such administrator or chief medical officer. The information in the medical records of a  
329 person so confined shall continue to be confidential and shall not be disclosed to any person except the  
330 subject by the administrator or chief medical officer of the facility or except as provided by law.

331 For the purposes of this chapter such statistical summaries of incidents and statistical data concerning  
332 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental  
333 Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in  
334 subsection A of this section. No such summaries or data shall include any patient-identifying  
335 information. Where the person who is the subject of scholastic or medical and mental records is under  
336 the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a  
337 noncustodial parent, unless such parent's parental rights have been terminated or a court of competent  
338 jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof  
339 is an emancipated minor or a student in a state-supported institution of higher education, such right of  
340 access may be asserted by the subject person.

341 4. Memoranda, working papers and correspondence (i) held by or requested from members of the  
342 General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the  
343 Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any  
344 political subdivision of the Commonwealth or the president or other chief executive officer of any  
345 state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or  
346 other papers held or requested by the mayor or other chief executive officer of any political subdivision  
347 which are specifically concerned with the evaluation of performance of the duties and functions of any  
348 locally elected official and were prepared after June 30, 1992.

349 Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of  
350 the General Assembly held by the Division of Legislative Services shall not be released by the Division  
351 without the prior consent of the member.

352 5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the  
353 Commonwealth and any other writing protected by the attorney-client privilege.

354 6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of  
355 an active administrative investigation concerning a matter which is properly the subject of an executive  
356 or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

357 7. Confidential letters and statements of recommendation placed in the records of educational  
358 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an  
359 application for employment, or (iii) receipt of an honor or honorary recognition.

360 8. Library records which can be used to identify both (i) any library patron who has borrowed  
361 material from a library and (ii) the material such patron borrowed.

362 9. Any test or examination used, administered or prepared by any public body for purposes of  
363 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's  
364 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license  
365 or certificate issued by any public body.

366 As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such  
367 test or examination, and (ii) any other document which would jeopardize the security of such test or

examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

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

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of this Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Economic Development or local industrial or economic development authorities or organizations, used by the Department and such entities for business, trade and tourism development.

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

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose

429 of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or  
430 of formulating advisory opinions to members on standards of conduct, or both.

431 29. Customer account information of a public utility affiliated with a political subdivision of the  
432 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
433 service provided and the amount of money paid for such utility service.

434 30. Investigative notes and other correspondence and information furnished in confidence with  
435 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice  
436 under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit  
437 the distribution of information taken from inactive reports in a form which does not reveal the identity  
438 of the parties involved or other persons supplying information.

439 31. Investigative notes; proprietary information not published, copyrighted or patented; information  
440 obtained from employee personnel records; personally identifiable information regarding residents,  
441 clients or other recipients of services; and other correspondence and information furnished in confidence  
442 to the Department of Social Services in connection with an active investigation of an applicant or  
443 licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however,  
444 nothing in this section shall prohibit disclosure of information from the records of completed  
445 investigations in a form that does not reveal the identity of complainants, persons supplying information,  
446 or other individuals involved in the investigation.

447 32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other  
448 information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or  
449 any institution thereof to the extent, as determined by the Director of the Department of Corrections or  
450 his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth  
451 and Family Services or any facility thereof to the extent as determined by the Director of the  
452 Department of Youth and Family Services, or his designee, that disclosure or public dissemination of  
453 such materials would jeopardize the security of any correctional or juvenile facility or institution, as  
454 follows:

455 (i) Security manuals, including emergency plans that are a part thereof;

456 (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational  
457 specifications of security systems utilized by the Departments, provided the general descriptions of such  
458 security systems, cost and quality shall be made available to the public;

459 (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address  
460 procedures for institutional security, emergency plans and security equipment;

461 (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they  
462 specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the  
463 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

464 (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to  
465 the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

466 (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in  
467 this section shall prohibit the disclosure of information taken from inactive reports in a form which does  
468 not reveal the identity of complainants or charging parties, persons supplying information, confidential  
469 sources, or other individuals involved in the investigation, or other specific operational details the  
470 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;  
471 nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of  
472 subsection B of this section;

473 (vii) Logs or other documents containing information on movement of inmates, juvenile clients or  
474 employees; and

475 (viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement  
476 personnel.

477 Notwithstanding the provisions of this subdivision, reports and information regarding the general  
478 operations of the Departments, including notice that an escape has occurred, shall be open to inspection  
479 and copying as provided in this section.

480 33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development  
481 Authority concerning individuals who have applied for or received loans or other housing assistance or  
482 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by  
483 the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the  
484 waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and  
485 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the  
486 waiting list for housing assistance programs funded by local governments or by any such authority.  
487 However, access to one's own information shall not be denied.

488 34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441,  
489 if disclosure of them would have a detrimental effect upon the negotiating position of a governing body  
490 or on the establishment of the terms, conditions and provisions of the siting agreement.



35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; however, nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

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

49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, (i) proprietary information provided by, and financial information

concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

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

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

52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization with which the Executive Director has contracted pursuant to § 9-166.4.

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. (Effective July 1, 1995) Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. Reports, documents, memoranda or other information or materials provided to or held by the Virginia Riverboat Gaming Commission which describe any aspect of security used by a licensee of the Commission, to the extent that disclosure or public dissemination of such materials would jeopardize the

614 security of any riverboat or appurtenant facility operated by such licensee, including, without limitation:  
 615 a. Operational, procedural or tactical planning documents, including any training manuals to the  
 616 extent they discuss security measures;

617 b. Surveillance techniques;

618 c. The installation, operation or utilization of any alarm, monitoring, or surveillance technology;

619 d. Engineering and architectural drawings of any riverboat or appurtenant facility; or

620 e. Operation of a riverboat or appurtenant facility involving (i) the handling and security of moneys,  
 621 chips, tokens and similar indicia of value or (ii) measures designed or taken to detect or prevent any act  
 622 which would constitute a crime pursuant to Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1.

623 C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this  
 624 title shall be construed as denying public access to contracts between a public official and a public  
 625 body, other than contracts settling public employee employment disputes held confidential as personnel  
 626 records under subdivision 3 of subsection B of this section, or to records of the position, job  
 627 classification, official salary or rate of pay of, and to records of the allowances or reimbursements for  
 628 expenses paid to, any public officer, official or employee at any level of state, local or regional  
 629 government in this Commonwealth or to the compensation or benefits paid by any corporation organized  
 630 by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their  
 631 officers or employees. The provisions of this subsection, however, shall not apply to records of the  
 632 official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

633 § 4.1-128. Local ordinances or resolutions regulating alcoholic beverages.

634 A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance  
 635 or resolution which regulates or prohibits the manufacture, bottling, possession, sale, distribution,  
 636 handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the  
 637 Commonwealth.

638 B. However, the governing body of any county, city, or town may adopt an ordinance which (i)  
 639 prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of  
 640 § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii)  
 641 subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage  
 642 containers in its local public parks, playgrounds, and public streets.

643 C. No county, city or town which has approved riverboat gaming shall adopt any ordinance or  
 644 resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a  
 645 riverboat as defined in Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1.

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

649 § 4.1-209. Wine and beer licenses.

650 The Board may grant the following licenses relating to wine and beer:

651 1. Retail on-premises wine and beer licenses to:

652 a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with  
 653 or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas,  
 654 private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such  
 655 rooms and areas. However, with regard to a hotel classified by the Board as a resort complex, the Board  
 656 may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex  
 657 deemed appropriate by the Board;

658 b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the  
 659 licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars  
 660 so operated by them, for on-premises consumption when carrying passengers;

661 c. Persons operating boats for which (I) certificates as a sight-seeing carrier by boat, or a special or  
 662 charter party by boat have been issued by the State Corporation Commission pursuant to § 56-457.8 or  
 663 (ii) licenses to engage in riverboat gaming have been issued by the Virginia Riverboat Gaming  
 664 Commission pursuant to Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1, which shall authorize the  
 665 licensee to sell wine and beer, either with or without meals, on such boats operated by them for  
 666 on-premises consumption when carrying passengers;

667 d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or  
 668 intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by  
 669 passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated  
 670 rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding;

671 e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for  
 672 their on-premises consumption only in such rooms, provided the consent of the patient's attending  
 673 physician is first obtained;

674 f. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize

the licensee to sell wine and beer in paper, plastic or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license; and

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 20,000 persons and is located in any county with a population between 210,000 and 216,000. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to purchasers in accordance with Board regulations.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed one ounce by volume or (ii) a sample of beer not to exceed two ounces by volume, for on-premises consumption.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and to deliver or ship the same to the purchasers, in accordance with Board regulations.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. A separate license shall be required for each day of each banquet or special event. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer unchilled, only within the interior premises of the gift shop in closed containers for off-premises consumption and to deliver or ship the wine and beer to purchasers in accordance with Board regulations.

§ 4.1-210. Mixed beverages licenses.

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

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

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

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

its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

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

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

4. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating a performing arts facility or (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture. The operation in either case shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the sale, on the dates of performances or events in furtherance of the purposes of the nonprofit corporation or association, of alcoholic beverages, for on-premises consumption in areas upon the licensed premises approved by the Board.

5. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, or riverboat licensed under Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier or riverboat, and in designated rooms of establishments of air carriers at airports in the Commonwealth.

B. The granting of any license under subdivisions 1 and 5 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

§ 4.1-231. Taxes on state licenses.

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

1. Alcoholic beverage licenses. - For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$350; and if more than 5,000 gallons manufactured during such year, \$2,860;

b. Fruit distiller's license, \$2,860;

c. Banquet facility license, \$145; and

d. Bed and breakfast establishment license, \$25.

2. Wine licenses. - For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$350, and if more than 5,000 gallons manufactured during such year, \$2,860;

b. Wholesale wine license, \$715 for any wholesaler who sells 150,000 gallons of wine or less per year, \$1,100 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$1,430 for any wholesaler who sells more than 300,000 gallons of wine per year;

c. Wine importer's license, \$285;

d. Retail off-premises winery license, \$110; and

e. Farm winery license, \$145.

3. Beer licenses. - For each:

a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$1,650, and if more than 10,000 barrels manufactured during such year, \$3,300;

b. Bottler's license, \$1,100;

c. Wholesale beer license, \$715 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,100 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,430 for any wholesaler who sells more than 600,000 cases of beer a year;

d. Beer importer's license, \$285;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$110; for each such license to a common carrier of passengers by train or boat, \$110 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$90; and

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a

798 town or in a rural area outside the corporate limits of any city or town, \$230.

799 4. Wine and beer licenses. - For each:

800 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a  
801 common carrier of passengers by train, boat or airplane, *or riverboat licensed pursuant to Chapter 29.1*  
802 *(§ 59.1-405.1 et seq.) of Title 59.1*, \$230; for each such license to a common carrier of passengers by  
803 train or boat, \$230 per annum for each of the average number of boats, dining cars, buffet cars or club  
804 cars operated daily in the Commonwealth, ~~and~~ for each such license granted to a common carrier of  
805 passengers by airplane, \$575; *and for each such license granted to a riverboat licensed pursuant to*  
806 *Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1, \$1.00 per gaming station, as defined in § 59.1-405.2,*  
807 *aboard such riverboat;*

808 b. Retail on-premises wine and beer license to a hospital, \$110;

809 c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience  
810 grocery store license, \$175;

811 d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$460; and

812 e. Banquet license, \$30 per license granted by the Board.

813 5. Mixed beverage licenses. - For each:

814 a. Mixed beverage restaurant licenses granted to persons operating restaurants, including restaurants  
815 located on premises of and operated by hotels or motels, or other persons:

816 (i) With a seating capacity at tables for up to 100 persons, \$430;

817 (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$750; and

818 (iii) With a seating capacity at tables for more than 150 persons, \$1,100.

819 b. Mixed beverage restaurant licenses for restaurants located on the premises of and operated by  
820 private, nonprofit clubs:

821 (i) With an average yearly membership of not more than 200 resident members, \$575;

822 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,  
823 \$1,430; and

824 (iii) With an average yearly membership of more than 500 resident members, \$2,125.

825 c. Mixed beverage caterer's licenses, \$1,430.

826 d. Mixed beverage special events licenses, \$35 for each day of each event.

827 e. Annual mixed beverage special events licenses, \$430.

828 f. Mixed beverage carrier licenses:

829 (i) \$145 per annum for each of the average number of dining cars, buffet cars or club cars operated  
830 daily in the Commonwealth by a common carrier of passengers by train;

831 (ii) \$430 per annum for each common carrier of passengers by boat; ~~and~~

832 (iii) \$1,135 for each license granted to a common carrier of passengers by airplane; *and*

833 (iv) *\$1.00 per gaming station, as defined in §59.1-405.2, aboard a riverboat licensed pursuant to*  
834 *Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1.*

835 6. Temporary licenses. - For each temporary license authorized by § 4.1-211, one-half of the tax  
836 imposed by this section on the license for which the applicant applied.

837 B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be  
838 subject to proration to the following extent: If the license is granted in the second quarter of any year  
839 the tax shall be decreased by one-fourth; if granted in the third quarter of any year the tax shall be  
840 decreased by one-half; and if granted in the fourth quarter of any year the tax shall be decreased by  
841 three-fourths.

842 If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000  
843 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license  
844 to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the  
845 number of gallons permitted to be manufactured shall be prorated in the same manner.

846 Should the holder of a distiller's license or a winery license to manufacture not more than 5,000  
847 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or  
848 winery license, such person shall pay for such unlimited license a license tax equal to the amount that  
849 would have been charged had such license been applied for at the time that the license to manufacture  
850 less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person  
851 shall be entitled to a refund of the amount of license tax previously paid on the limited license.

852 Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than  
853 twelve months shall be equal to one-twelfth of the taxes required by subsection A computed to the  
854 nearest cent, multiplied by the number of months in the license period.

855 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state  
856 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,  
857 shall be liable to state merchants' license taxation and state restaurant license taxation and other state  
858 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer  
859 wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license

tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

§ 4.1-233. Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. - For each:

a. Distiller's license, \$1,000; no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500; and

c. Bed and breakfast establishment license, \$40.

2. Beer. - For each:

a. Brewery license, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75; and

d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25.

3. Wine. - For each:

a. Winery license, \$1,000; and

b. Wholesale wine license, \$50.

4. Wine and beer. - For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10; and

c. Banquet license, \$5 for each license granted.

5. Mixed beverages. - For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables of not more than 100 persons, \$200;

(ii) With a seating capacity at tables of more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500; and

d. Mixed beverage special events licenses, \$10 for each day of each event.

B. Common carriers. - No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats ~~or~~, airplanes, *or riverboats licensed pursuant to Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1*, and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

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

D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any

921 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such  
922 wholesaler maintains no place of business in such county, city or town.

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

926 § 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

927 A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee  
928 shall:

929 1. Sell or serve any alcoholic beverage other than as authorized by law;

930 2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

931 3. Allow at the place described in his license the consumption of alcoholic beverages in violation of  
932 this title;

933 4. Keep at the place described in his license any alcoholic beverage other than that which he is  
934 licensed to sell;

935 5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

936 6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by  
937 him except in a frozen drink dispenser of a type approved by the Board and in the case of wine, in  
938 containers of a type approved by the Board pending automatic dispensing and sale of such wine;

939 7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper  
940 with the contents of any bottle or container of alcoholic beverage;

941 8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the  
942 purchaser without first advising such purchaser of the difference;

943 9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages  
944 offered for sale;

945 10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or  
946 obliterated;

947 11. Allow any immoral, lewd, obscene, indecent or profane conduct, language, literature, pictures,  
948 performance or materials on the licensed premises;

949 12. Allow any striptease act, or the like on the licensed premises;

950 13. Allow persons connected with the licensed business to appear nude or partially nude;

951 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty;

952 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license  
953 whether the closure is broken or unbroken except in accordance with § 4.1-210;

954 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

955 17. Conceal any sale or consumption of any alcoholic beverages;

956 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or  
957 obstruct special agents of the Board in the discharge of their duties;

958 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any  
959 such alcoholic beverages from the premises;

960 20. Allow any person to receive a percentage of the income of the licensed business or have any  
961 beneficial interest in such business, except in accordance with Board regulations;

962 21. Knowingly employ in the licensed business any person who has the general reputation as a  
963 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person  
964 who drinks to excess, or engages in illegal gambling; or

965 22. Keep on the licensed premises a *prohibited* slot machine or any prohibited gambling or gaming  
966 device, machine or apparatus.

967 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

968 § 9-6.25:3. Supervisory boards.

969 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the  
970 following supervisory boards:

971 Alcoholic Beverage Control Board

972 Board for Branch Pilots

973 Board of Commissioners, Virginia Port Authority

974 Board of Game and Inland Fisheries

975 Board of Regents, Gunston Hall Plantation

976 Board of Regents, James Monroe Memorial Law Office and Library

977 Board of Trustees, Chippokes Plantation Farm Foundation

978 Board of Trustees, Frontier Culture Museum of Virginia

979 Board of Trustees, Jamestown-Yorktown Foundation

980 Board of Trustees, the Science Museum of Virginia

981 Board of Trustees, Virginia Museum of Fine Arts

982 Board of Trustees, Virginia Retirement System



- 983 Board of Trustees, Virginia Veterans Care Center  
 984 Board of Trustees, Virginia War Memorial Foundation  
 985 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund  
 986 Board of Visitors, Christopher Newport University  
 987 Board of Visitors, George Mason University  
 988 Board of Visitors, James Madison University  
 989 Board of Visitors, Longwood College  
 990 Board of Visitors, Mary Washington College  
 991 Board of Visitors, Norfolk State University  
 992 Board of Visitors, Old Dominion University  
 993 Board of Visitors, Radford University  
 994 Board of Visitors, The College of William and Mary in Virginia  
 995 Board of Visitors, University of Virginia  
 996 Board of Visitors, Virginia Commonwealth University  
 997 Board of Visitors, Virginia Military Institute  
 998 Board of Visitors, Virginia Polytechnic Institute and State University  
 999 Board of Visitors, Virginia State University  
 1000 Commonwealth's Attorneys' Services Council  
 1001 Compensation Board  
 1002 Governing Board, Virginia College Building Authority  
 1003 Governing Board, Virginia Public School Authority  
 1004 State Board for Community Colleges, Virginia Community College System  
 1005 State Board of Education  
 1006 State Certified Seed Board  
 1007 State Council of Higher Education for Virginia  
 1008 Virginia Agricultural Council  
 1009 Virginia Bright Flue-Cured Tobacco Board  
 1010 Virginia Board for People with Disabilities  
 1011 Virginia Cattle Industry Board  
 1012 Virginia Corn Board  
 1013 Virginia Dark-Fired Tobacco Board  
 1014 Virginia Egg Board  
 1015 Virginia Horse Industry Board  
 1016 Virginia Marine Products Board  
 1017 Virginia Peanut Board  
 1018 Virginia Pork Industry Board  
 1019 Virginia Riverboat Gaming Commission  
 1020 Virginia Soybean Board  
 1021 Virginia State Apple Board  
 1022 Virginia Sweet Potato Board.  
 1023 § 11-16.1. Exemptions from chapter.  
 1024 This chapter shall not apply to any bet, wager, or gaming permitted by Chapter 29.1 (§ 59.1-405.1 et  
 1025 seq.) of Title 59.1 or to any contracts, conduct, or transactions arising from conduct lawful thereunder.  
 1026 § 18.2-334.5. Exemptions from article; riverboat gaming.  
 1027 Nothing in this article shall be construed to make it illegal to participate in any riverboat gaming  
 1028 activity conducted in accordance with Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1.  
 1029 § 58.1-3732.1:1. Limitation on gross receipts; riverboat gaming.  
 1030 Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not  
 1031 include the wagering and admission taxes established under §§ 59.1-405.28 and 59.1-405.29,  
 1032 respectively.  
 1033 § 59.1-368.1. Financial interest in riverboat gaming prohibited.  
 1034 No member or employee of the Commission, and no spouse or immediate family member of any such  
 1035 member or employee, shall have any financial interest, direct or indirect, in any person holding a  
 1036 license as operator or supplier under Chapter 29.1 (§ 59.1-405.1 et seq.) of Title 59.1.  
 1037 CHAPTER 29.1.  
 1038 ECONOMIC DEVELOPMENT AND RIVERBOAT GAMING ACT OF 1995.  
 1039 Article 1.  
 1040 General Provisions.  
 1041 § 59.1-405.1. Short title.  
 1042 This chapter may be referred to as the Economic Development and Riverboat Gaming Act of 1995  
 1043 § 59.1-405.2. Definitions.

1044 *As used in this chapter, unless the context requires a different meaning:*

1045 *"Adjusted gross receipts" means the gross receipts from riverboat gaming less winnings paid to*  
1046 *winners.*

1047 *"Cheat" means to alter the selection criteria which determine the result of a game or the amount or*  
1048 *frequency of payment in a game for the purpose of obtaining an advantage for one or more participants*  
1049 *in a game over other participants in a game.*

1050 *"Commission" means the Virginia Riverboat Gaming Commission created pursuant to § 59.1-405.3 of*  
1051 *this chapter.*

1052 *"Designated navigable waters" means (i) those portions of the Rappahannock River, James River,*  
1053 *York River, Elizabeth River, and Appomattox River, and of their respective tidal bays, inlets, and*  
1054 *primary tributaries, extending from the Commonwealth's territorial sea to the fall line and (ii) the*  
1055 *territorial sea and its tidal bays, inlets, and primary tributaries, including the Chesapeake Bay and*  
1056 *Hampton Roads.*

1057 *"Dock" means the location on designated navigable waters where a riverboat moors for the purpose*  
1058 *of embarking passengers for, and disembarking passengers from, a gaming excursion.*

1059 *"Entity" means a person which is not a natural person.*

1060 *"Excursion vessel" means a sightseeing vessel operating on designated navigable waters under a*  
1061 *certificate of public convenience and necessity issued under Chapter 14.1 (§ 56-457.1 et seq.) of Title*  
1062 *56.*

1063 *"Gaming" and "game" include, but are not limited to, baccarat, blackjack, twenty-one, poker, craps,*  
1064 *dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket,*  
1065 *push card, jar ticket, or pull tab or any other activity which is authorized by the Commission as a*  
1066 *wagering game or device under this chapter.*

1067 *"Gaming excursion" means the time during which gaming is conducted on a riverboat.*

1068 *"Gaming operation" means the conduct of authorized gaming upon a riverboat.*

1069 *"Gaming station" means a wagering device or a position at a wagering game or gaming table.*

1070 *"Gross receipts" means the total amount of money wagered or exchanged for the purchase of chips,*  
1071 *tokens, or electronic cards by riverboat patrons for wagering while aboard a riverboat.*

1072 *"Immediate family" means a spouse, son, daughter, father, mother, brother, sister, grandparent,*  
1073 *son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepson,*  
1074 *stepdaughter, stepparent, or stepgrandparent.*

1075 *"Licensee" or "license holder" means any person holding an operator's license under § 59.1-405.14*  
1076 *of this chapter.*

1077 *"Permit holder" means any person holding a supplier or service permit pursuant to this chapter.*

1078 *"Person" means a natural person, partnership, joint venture, association, limited liability company,*  
1079 *stock corporation, or nonstock corporation and includes any person which directly or indirectly controls*  
1080 *or is under common control with another person.*

1081 *"Principal" means any person who individually or together with his spouse and immediate family*  
1082 *members (a) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in*  
1083 *any entity which is a licensee or (b) has the power to vote or cause the vote of five percent or more of*  
1084 *the voting securities or other ownership interests of such entity.*

1085 *"Riverboat" means a self-propelled vessel on which lawful gaming is authorized and licensed as*  
1086 *provided in this chapter.*

1087 *"Security" shall have the meaning prescribed by § 13.1-501 of the Code of Virginia. If the*  
1088 *Commission finds that any obligation, stock, or other equity interest creates control of or voice in the*  
1089 *management operations of an entity in the manner of a security then such interest shall be considered a*  
1090 *security.*

1091 *"Supplier" means any person who sells or leases, or contracts to sell or lease, any gaming*  
1092 *equipment, devices or supplies, or provides any management services, to a licensee.*

1093 *"Territorial sea" means the waters of the Atlantic Ocean within the belt, three nautical miles wide,*  
1094 *that is adjacent to Virginia's coast and seaward of the mean low-water mark.*

1095 *§ 59.1-405.3. Regulation and control of riverboat gaming.*

1096 *A. Gaming shall be licensed and permitted as herein provided aboard excursion vessels and*  
1097 *riverboats meeting the requirements of this chapter on designated navigable waters within the*  
1098 *boundaries of the Commonwealth to benefit the people of the Commonwealth. The Virginia Riverboat*  
1099 *Gaming Commission established under this chapter is vested with control of all riverboat gaming in the*  
1100 *Commonwealth, with plenary power to prescribe regulations and conditions under this chapter. The*  
1101 *purposes of this chapter are to assist economic development, promote tourism, and provide for the*  
1102 *implementation of gaming operations of the highest quality, honesty, and integrity, and free of any*  
1103 *corrupt, incompetent, dishonest or unprincipled practices and to further these ends by promoting prompt*  
1104 *deployment of vessels; by establishing criteria for size, operations, design, and licensing of riverboats;*  
1105 *and by encouraging participation in those activities and enterprises associated with riverboat gaming by*

individuals and businesses within the Commonwealth and associated with its tourism, maritime, ship building and repair, and similar industries.

B. The conduct of any riverboat gaming operation and entrance to any place where such gaming operations are conducted are privileges which may be granted or denied by the Commission or its authorized representatives in order to effectuate the purposes set forth in this chapter.

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

§ 59.1-405.4. The Virginia Riverboat Gaming Commission created; members.

A. The Virginia Riverboat Gaming Commission is created and shall consist of five members appointed by the Governor and confirmed by a majority of those elected to each house of the General Assembly at the next regular session following any such appointment. Each Commissioner shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. The initial appointments shall be made on or before August 1, 1995, and shall be for the following terms: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter, all appointments shall be for terms of five years. A vacancy in the Commission shall be filled for the unexpired term. Each Commissioner shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than five years shall thereafter be eligible for reappointment to two consecutive terms of five years each. The Commission shall elect its chairman. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

B. Each member of the Commission shall receive fifty dollars for each day or part thereof spent in the performance of his duties and in addition shall be reimbursed for his reasonable expenses incurred therein.

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

D. The Commission shall establish and maintain a general business office within the Commonwealth for the transaction of its business at a place to be determined by the Commission. The Commission shall meet at such times and places within the Commonwealth as it shall determine. A majority of the Commissioners shall constitute a quorum for the convening of a meeting, but the performance of any duty or the exercise of any power of the Commission shall require a majority of the entire Commission. The Commission shall meet promptly after appointment of the Commissioners with the end of establishing on or before December 31, 1995, regulations and procedures for the issuance of licenses hereunder.

§ 59.1-405.5. Legal representation.

The Commission may be represented in all legal matters by general counsel hired by the Commission; however, the employment of such counsel shall be subject to the approval of the Attorney General. The compensation for such general counsel shall be paid out of the funds appropriated for the administration of the Commission. No member of the General Assembly while serving as a member nor any person associated with such member's law practice shall be employed as general counsel.

§ 59.1-405.6. Financial interests of Commission members, employees and family members prohibited.

No member or employee of the Commission, and no spouse or immediate family member of any such member or employee shall have any financial interest, direct or indirect, (i) in any riverboat gaming operation or other enterprise subject to the provisions of this chapter or in any entity which has submitted an application for a license or permit under this chapter or (ii) in any horse racetrack, satellite facility or operation incident thereto subject to the provisions of Chapter 29 (§ 59.1-364 et seq.) of this title; in any entity which has submitted an application for a license under Article 2 (§ 59.1-375 et seq.) of Chapter 29 of this title; in the operation of any such track or satellite facility within the Commonwealth; or in the operation of any wagering authorized under Chapter 29 of this title. No member of the Commission, and no spouse or immediate family member of a Commission member, shall participate as a principal or owner of a riverboat, or have any pecuniary interest in the winnings from any gaming operation, or participate as owner of a horse or otherwise as a contestant in any race subject to the jurisdiction of the Virginia Racing Commission, or have any pecuniary interest in the purse or prize contested for in any such race. No member of the Commission, and no spouse or immediate family member of a Commission member, shall make any contribution to a candidate for office or office holders on the local or state level, or cause a contribution to be made on their behalf.

§ 59.1-405.7. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary or appropriate to carry out the provisions of this chapter and to exercise control of riverboat gaming. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction to issue permits and licenses under this chapter, to supervise all riverboat gaming operations licensed under the provisions of this chapter, and to supervise the activities of all persons conducting, participating in, or attending any riverboat gaming operation. It

1167 shall employ such persons to be present at riverboat gaming operations as are necessary to ensure that  
1168 such operations are conducted with order and the highest degree of integrity. It may eject or exclude  
1169 from a riverboat and appurtenant facilities any person, whether or not he possesses a license or permit,  
1170 whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect  
1171 adversely on the honesty and integrity of riverboat gaming, or interfere with the orderly conduct of  
1172 riverboat gaming.

1173 2. The Commission, or its representatives and employees, shall visit, investigate, and have free  
1174 access to the office, riverboats, facilities, or other places of business of any licensee or permit holder  
1175 and may compel the production of any of the books, documents, records, or memoranda of any licensee  
1176 or permit holder for the purpose of satisfying itself that this chapter and Commission regulations are  
1177 strictly complied with. In addition, the Commission may require the production of the annual balance  
1178 sheets and operating statements of any person licensed or granted a permit pursuant to the provisions of  
1179 this chapter and may require the production of any contract to which such person is or may be a party.

1180 3. The Commission shall promulgate, and from time to time amend, regulations and conditions under  
1181 which riverboat gaming shall be conducted in the Commonwealth and all such other regulations it  
1182 deems necessary and appropriate to further the purposes of this chapter. Such regulations shall contain  
1183 provisions for (i) affirmative action to assure participation by minority persons in contracts granted by  
1184 the Commission and its licensees and (ii) appropriate safety standards for riverboats, including  
1185 requirements that all personnel required by the vessel's United States Coast Guard certificate of  
1186 inspection to operate the vessel shall be United States Coast Guard certified in lifeboat procedures and  
1187 marine firefighting and have received United States Red Cross certification in cardiopulmonary  
1188 resuscitation. The Commission shall require safety and rescue equipment and procedures for riverboats  
1189 as are required by the United States Coast Guard for vessels of the same or similar type. All  
1190 regulations of the Commission shall be promulgated in accordance with the Administrative Process Act  
1191 (§ 9-6.14:1 et seq.) and may provide penalties for violations of such regulations.

1192 4. The Commission may issue an operator's license approving the use of vessels on an interim basis,  
1193 conditioned upon deployment of permanent vessels by a date specified in the operator's license. If it  
1194 determines it is in the best interests of the Commonwealth to do so, the Commission may revoke the  
1195 operator's license of a licensee which fails to begin regular riverboat cruises within eighteen months or,  
1196 in the case of excursion vessels, within six months, after receipt of its license.

1197 5. The Commission may issue an operator's license only to a person who meets the criteria of  
1198 § 59.1-405.16.

1199 6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths,  
1200 and compel production of records or other documents and testimony of such witnesses whenever in the  
1201 judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

1202 7. The Commission may compel any person holding a license or permit to file with the Commission  
1203 such data as shall appear to the Commission to be necessary for the performance of its duties including,  
1204 but not limited to, financial statements and information relative to principals and all others with any  
1205 pecuniary interest in such person. It may prescribe the manner in which books and records of such  
1206 persons shall be kept.

1207 8. The Commission may enter into arrangements with any foreign or domestic governmental agency  
1208 for the purposes of exchanging information or performing any other act to better ensure the proper  
1209 conduct of riverboat gaming operations or the efficient conduct of the Commission's duties.

1210 9. The Commission shall report annually to the Governor and the General Assembly; the report shall  
1211 include a financial statement of the operations of the Commission.

1212 10. The Commission may order such audits, in addition to those required by § 59.1-405.9, as it  
1213 deems necessary and desirable.

1214 11. The Commission shall upon the receipt of a credible complaint of an alleged criminal violation  
1215 of this chapter immediately report the complaint to the Attorney General and the State Police for  
1216 appropriate action.

1217 12. The Commission shall provide for the withholding of the applicable amount of state and federal  
1218 income tax of persons claiming a prize or pay-off for winning a game in accordance with applicable  
1219 state and federal law and regulations.

1220 13. The Commission and its Executive Secretary shall have the powers, authorities and duties of a  
1221 peace officer for the purposes of enforcing the provisions of this chapter.

1222 § 59.1-405.8. Commission; Executive Secretary; staff.

1223 A. The Commission shall appoint an Executive Secretary and such other employees as it deems  
1224 necessary to perform its duties under this chapter, who shall possess such authority and perform such  
1225 duties as the Commission shall prescribe or delegate to them. Such employees may include inspectors,  
1226 accountants, guards and such other employees deemed by the Commission to be necessary for the  
1227 supervision and the proper conduct of riverboat gaming in accordance with the highest standards of  
1228 integrity. Such employees shall be compensated as provided by the Commission.

*B. The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and complete record of all proceedings of the Commission and preserve at the Commission's general office all books, documents and papers of the Commission.*

*Neither the Executive Secretary, nor the spouse or any member of the immediate family of the Executive Secretary, shall make any contributions to a candidate for office or office holder at the local or state level or cause such a contribution to be made on his behalf.*

*§ 59.1-405.9. Audit required.*

*A regular post-audit shall be conducted of all accounts and transactions of the Commission. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Commission shall be conducted by the Auditor of Public Accounts on or before September 30 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Commission.*

*§ 59.1-405.10. Fingerprints and background investigations.*

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

*§ 59.1-405.11. Hearing and appeal.*

*Any person aggrieved by a refusal of the Commission to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a civil penalty, or any other action of the Commission, may, within thirty days of such action, appeal to the Circuit Court of the City of Richmond. If the court finds that the action of the Commission was arbitrary, it shall order such action as it deems appropriate. The decision of the court shall be subject to appeal as in other cases at law.*

*§ 59.1-405.12. Injunction.*

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

*§ 59.1-405.13. State Riverboat Gaming Operations Fund.*

*A. All moneys and revenues received by the Commission under this chapter shall be placed in a special fund to be known as the State Riverboat Gaming Operations Fund. Notwithstanding any other provision of law, interest earned from moneys in the State Riverboat Gaming Operations Fund shall accrue to the benefit of such Fund.*

*B. The total costs of the operation and administration of the Commission after July 1, 1996, shall be funded from the State Riverboat Gaming Operations Fund and shall be in such amount as provided in the general appropriations act.*

## *Article 2.*

### *Licenses.*

*§ 59.1-405.14. Operator's license required; license not transferable.*

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

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

*§ 59.1-405.15. Application for operator's license; penalty.*

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

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

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

*3. Such information as the Commission considers appropriate regarding the character, background*

1290 and responsibility of the applicant and the principals, officers and directors of the applicant;  
1291 4. A description of the riverboats on which such gaming operations are to be conducted, the city or  
1292 county where such riverboats will be docked and routes over which they are proposed to be operated,  
1293 and the number of gaming stations to be provided on each riverboat. The Commission shall require  
1294 such information about a riverboat and its location as it deems necessary and appropriate to determine  
1295 whether it complies with the minimum standards provided in this chapter, and whether the conduct of  
1296 riverboat gaming operations at such location will be in furtherance of the purposes of this chapter;  
1297 5. Such information relating to the financial responsibility of the applicant and the applicant's ability  
1298 to perform under its license as the Commission considers appropriate;  
1299 6. If any of the facilities necessary for the conduct of riverboat gaming operations are to be leased,  
1300 the terms of such lease;  
1301 7. The design and layout of each proposed riverboat, whether proposed for permanent or for interim  
1302 use, and whether any such riverboat is a modification of an existing vessel or a vessel of new  
1303 construction;  
1304 8. If the riverboat is to dock within a locality which has not approved riverboat gaming in the  
1305 manner herein specified, the date the locality is anticipated to provide such approval;  
1306 9. Evidence of compliance by the applicant with the land use plan and design review criteria of the  
1307 local governing body of the locality in which the dock is proposed to be located; and  
1308 10. Any other information which the Commission in its discretion considers appropriate.  
1309 B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant, and  
1310 shall be accompanied by the application fee provided for herein.  
1311 C. An application shall be filed with the Commission by July 1 of the year preceding any calendar  
1312 year for which an applicant seeks an operator's license. The Commission shall act on applications  
1313 promptly and in no event later than December 31 of the year in which such application is made.  
1314 Supplemental information, if requested by the Commission and filed by the applicant within the time  
1315 specified by the Commission, shall be deemed filed with the original application. A nonrefundable  
1316 application fee of \$50,000 shall be paid at the time of filing to defray the costs associated with the  
1317 background investigation conducted by the Commission. If the costs of the investigation exceed \$50,000,  
1318 the applicant shall pay the additional amount to the Commission. The Commission may establish  
1319 regulations calculating the costs to the Commission in performing its functions under this chapter and  
1320 allocating such costs to applicants.  
1321 D. The licensed operator shall be the person primarily responsible for the riverboat itself and  
1322 compliance with the provisions of this chapter. The applicant shall identify each riverboat it intends to  
1323 use on an interim basis or permanent basis and certify that each riverboat will: (i) comply with the  
1324 provisions of this chapter; (ii) be either modeled after a nineteenth century riverboat or be of a cruise  
1325 ship design; and (iii) be eligible for registration, certification, and licensing in accordance with all  
1326 applicable laws and regulations.  
1327 E. A person who knowingly makes a false statement on an application for an operator's license shall  
1328 be guilty of a Class 4 felony.  
1329 § 59.1-405.16. Issuance of operator's license.  
1330 A. The Commission may issue an operator's license to a person only if it finds that:  
1331 1. The riverboats and appurtenant facilities the applicant proposes to use on a permanent basis are  
1332 or will be appropriate for the finest quality of riverboat gaming operations and that any riverboats and  
1333 appurtenant facilities the applicant proposes to use on an interim basis are consistent with the purposes  
1334 of this chapter;  
1335 2. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable  
1336 and have been subscribed and will be paid for only in cash or property to the exclusion of past  
1337 services;  
1338 3. All principals meet the criteria of subsection B and have submitted to the jurisdiction of the  
1339 Virginia courts, and all nonresident principals have designated the Executive Secretary of the  
1340 Commission as their agent for receipt of process;  
1341 4. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and  
1342 require the resignation of, any person who is or becomes disqualified under subsection B;  
1343 5. The applicant meets the criteria established by this chapter and the Commission for the granting  
1344 of an operator's license;  
1345 6. The applicant is qualified to do business in Virginia and is subject to the jurisdiction of the courts  
1346 of the Commonwealth; and  
1347 7. The applicant is not disqualified to hold a license pursuant to subsection B.  
1348 B. An applicant shall be disqualified for a license, and the Commission shall deny a license to an  
1349 applicant, if it finds that for any reason the issuance of a license to the applicant would reflect  
1350 adversely on the honesty and integrity of the riverboat gaming industry in the Commonwealth, or that  
1351 the applicant, or any officer, principal, manager, or director of the applicant:

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

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

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

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

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

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

C. The Commission shall issue an operator's license to any person who satisfies the requirements of subsection A and who as of January 12, 1994, owned or operated an excursion vessel having a current United States Coast Guard certified capacity of at least 400 passengers. Any such license shall permit gaming operations only on the designated navigable waters described in the certificate of public convenience and necessity under which such vessel operated as of January 12, 1994, and only from a dock within a two-mile radius of the dock from which such excursion vessel regularly embarked and disembarked passengers as of January 12, 1994. Such license shall require gaming excursions to commence on the vessel, as the same may be modified for gaming operations, within six months of issuance of such license and to continue until a replacement vessel approved by the Commission is placed in service. The granting of such license shall not preclude the granting of an operator's license pursuant to subsection D to any person owning or operating an excursion vessel in a locality which is contiguous to the locality in which an operator's license has been issued in accordance with this subsection.

D. The Commission may issue, in addition to those licenses issued pursuant to subsection C, up to five licenses authorizing and requiring the holders of such licenses to operate no more than two riverboats, each having at least 400, but not more than 1,200, gaming stations. In determining whether to grant an operator's license to an applicant under this subsection, the Commission shall consider:

1. The character, reputation, experience in vessel operations, and financial integrity of the applicant and of any other or separate person that either:

a. Controls, directly or indirectly, such applicant; or

b. Is controlled, directly or indirectly, by such applicant or by a person which controls, directly or indirectly, such applicant;

2. The facilities proposed for the conduct of riverboat gaming;

3. The prospective total revenue to be derived by the Commonwealth from the conduct of riverboat gaming by the applicant;

4. The good faith affirmative action plan of each applicant to recruit, train and promote minorities in all employment classifications;

5. The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;

6. Whether the applicant has adequate capitalization to provide and maintain its proposed gaming operations for the duration of a license;

7. The economic impact of the proposed operation within the Commonwealth;

8. The economic effects of the proposed construction, modification, and repair of riverboats on the ship building and ship repair industries of the Commonwealth;

9. The goal of making the benefits of riverboat gaming available to different cities and counties within the Commonwealth;

10. The compatibility of the applicant's proposed operations with the land use plan and design review criteria of the local governing body of the city or county in which the dock is to be located;

11. The extent to which the applicant exceeds or meets other standards for the issuance of an operator's license which the Commission may adopt by regulation;

12. As may be permitted by law, the extent to which the applicant includes residents, including minorities, of the Commonwealth who have an equity interest, or leasehold or ownership interest in the proposed facilities, the riverboat or the land or leasehold agreement and the extent of that interest; and

13. Whether the county or city in which the facilities are to be located is experiencing fiscal stress as defined in the composite Fiscal Stress Index, Scores and Classifications by Locality, published by the Commission on Local Government, or economic dislocation due to military base closings, civilian personnel reductions, or reduction in civilian employment in defense related industries.

1413 F. Each operator's license shall specify the city or county and the specific location therein where the  
1414 riverboats will dock and the designated navigable waters within which the riverboats will operate. The  
1415 Commission may condition any license on the operator's use of permanent or interim riverboats and  
1416 appurtenant facilities which are substantially the same as those submitted with the application filed with  
1417 the Commission and shall condition each license on the operator's facilities being in compliance with  
1418 the land use plan and design review criteria of the local governing body and on approval of riverboat  
1419 gaming by the qualified voters of the locality pursuant to § 59.1-405.38 within twelve months of the date  
1420 the license is issued.

1421 G. No operator shall be granted more than one license and no principal of a licensee shall at the  
1422 same time be a principal of any other licensee.

1423 § 59.1-405.17. Duration, form of operator's license; bond.

1424 A. A license issued under this chapter shall be for the period set by the Commission, not to be less  
1425 than ten years, but shall be reviewed annually to determine compliance with this chapter and  
1426 Commission regulations. The Commission shall designate on the license the duration of such license, the  
1427 city or county, and the specific location therein, at which the riverboats shall be docked, the navigable  
1428 waters within which such riverboats shall operate, and such other information as it deems proper. The  
1429 Commission shall establish criteria and procedures for vessel replacement, for license renewal, and for  
1430 amending licenses. Renewal shall not be unreasonably refused.

1431 B. An operator's license issued under subsection C or D of § 59.1-405.16 shall entitle the licensee to  
1432 operate up to two riverboats within the same specified navigable waters and area of operation therein.

1433 C. The Commission shall require a bond with surety acceptable to it, and in an amount determined  
1434 by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

1435 § 59.1-405.18. Records to be kept; reports.

1436 A. A licensed operator shall keep his books and records so as to clearly show the following:

1437 1. Daily attendance, including paid and complimentary admissions;

1438 2. The total amount of gross receipts; and

1439 3. The total amount of adjusted gross receipts.

1440 B. The licensed operator shall furnish to the Commission reports and information as the Commission  
1441 may require with respect to its activities on forms or in a format designated by the Commission.

1442 C. The licensed operator shall report to the Commissioner of the Department of Taxation and the  
1443 Internal Revenue Service such identifying information regarding persons winning jackpots or other  
1444 substantial sums from single plays as may be required pursuant to applicable state and federal law and  
1445 regulations. The Commissioner of the Department of Taxation may promulgate regulations consistent  
1446 with applicable federal law and regulations requiring licensees to make such reports to the Department  
1447 of Taxation. Copies of all reports made pursuant to this subsection shall be promptly forwarded to the  
1448 Commission.

1449 D. The books and records required under subsections A and B to be kept by a licensed operator  
1450 shall be public records, and the examination, publication, and dissemination of such books and records  
1451 shall be governed by the provisions of the Freedom of Information Act (§ 2.1-340 et seq.).

1452 § 59.1-405.19. Audit of licensed operations.

1453 Within ninety days after the end of each year, the licensed operator shall transmit to the Commission  
1454 an audit of the financial transactions and condition of the licensee's total operations. All audits required  
1455 by this section shall conform to Commission regulations.

1456 Article 3.

1457 Supplier's Permits.

1458 § 59.1-405.20. Supplier's permits; penalty.

1459 A. The Commission may issue a supplier's permit to persons upon application therefor and the  
1460 payment of a nonrefundable application fee set by the Commission, upon a determination by the  
1461 Commission that the applicant is eligible for a supplier's permit and upon payment of a \$5,000 initial  
1462 permit fee. A supplier's permit must be renewed annually at a fee to be determined by the Commission,  
1463 not to exceed \$5,000, and is not transferable.

1464 B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, gaming equipment  
1465 and supplies, or provide management services, to any licensee involved in the ownership or management  
1466 of gaming operations to the extent provided in said permit.

1467 C. Gaming supplies and equipment may not be distributed unless supplies and equipment conform to  
1468 standards adopted by the Commission.

1469 D. A person is ineligible to receive a supplier's permit if:

1470 1. The person has been convicted of a felony under the laws of the Commonwealth, any other state,  
1471 or the United States;

1472 2. The person has submitted an application for a license under this chapter which contains false  
1473 information;

1474 3. The person is a member or employee of the Commission;



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

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

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

E. Any person that supplies any gaming equipment, devices, or supplies to a licensed riverboat gaming operation, or manages any operation, including a computerized network on a riverboat, must first obtain a supplier's permit. A supplier shall furnish to the Commission a list of all management services, equipment, devices and supplies offered for sale or lease in connection with the games authorized under this chapter. A supplier shall keep books and records for the furnishing of equipment, devices and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Commission listing all sales and leases for which a permit is required hereunder. A supplier shall permanently affix its name to all its equipment, devices, and supplies used for gaming operations. Any supplier's equipment, devices or supplies which are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

A licensed operator may operate its own equipment, devices and supplies and may utilize gaming equipment, devices, and supplies at such locations as may be approved by the Commission for the purpose of training enrollees in a school operated by the licensee to train persons who desire to become qualified for employment or promotion in gaming operations. The Commission may establish rules for the conduct of any such schools. Each holder of an operator's license under this chapter shall file an annual report listing its inventories of the gaming equipment, devices and supplies related to its operations in Virginia.

F. Any person who knowingly makes a false statement on an application for a supplier's permit shall be guilty of a Class 4 felony.

§ 59.1-405.21. Denial of permit final.

The denial of a supplier's permit by the Commission shall be final unless appealed under § 59.1-405.11, and a permit may not be applied for again for a period of five years from the date of denial without the permission of the Commission.

#### Article 4.

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

§ 59.1-405.22. Suspension or revocation of license or permit.

Upon fifteen days' notice and an opportunity for hearing, the Commission may suspend or revoke any operator's license or supplier's permit, or assess a civil penalty against the holder thereof in a sum not to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with or has been violated. The Commission may revoke or suspend such license or permit if it finds that facts not known by it at the time it considered the application indicate that such license or permit should not have been issued. Deliberations of the Commission hereunder shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.). If any such license or permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 59.1-405.11. Suspension or revocation of a license or permit by the Commission for any violation shall not preclude criminal liability for such violation.

§ 59.1-405.23. Acquisition of interest in licensee or permit holder.

The Commission shall require any person desiring to become a principal of, or other investor in, any licensee or holder of a supplier's permit to apply to the Commission for approval thereof and may demand such information of the applicant as it finds necessary. The Commission shall consider such application within sixty days of its receipt and if in its judgment the acquisition by the applicant would be detrimental to the public interest, or to the honesty, integrity or reputation of riverboat gaming operations, the application shall be denied.

#### Article 5. Service Permits.

§ 59.1-405.24. Permit required.

No person shall participate in any riverboat gaming operation as a riverboat employee, concessionaire or employee thereof, or other occupation the Commission considers necessary to regulate in order to ensure the integrity of riverboat gaming in the Commonwealth, unless such person possesses a permit therefor from the Commission, and complies with the provisions of this chapter and all

1536 Commission regulations. No permit issued under the provisions of this chapter shall be transferable.

1537 § 59.1-405.25. Application for permit.

1538 A. Any person desiring to obtain a permit as required by this chapter shall make application therefor  
1539 on a form or in a format prescribed by the Commission. The application shall be accompanied by a fee  
1540 prescribed by the Commission, not to exceed \$1,000.

1541 B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

1542 § 59.1-405.26. Consideration of application.

1543 A. The Commission shall promptly consider any application for a service permit and issue or deny  
1544 such permit based on the information in the application and all other information before it, including  
1545 any investigation it considers appropriate. If an application for a permit is approved, the Commission  
1546 shall issue a permit, containing such information as the Commission considers appropriate. Such permit  
1547 shall be valid for one year. The Commission shall establish criteria and procedures for permit renewal.

1548 B. The Commission shall deny the application and refuse to issue the permit, which denial shall be  
1549 final unless an appeal is taken under § 59.1-405.10, if it finds that the issuance of such permit to such  
1550 applicant would not be in the best interests of the Commonwealth, or would reflect adversely on the  
1551 honesty and integrity of riverboat gaming in the Commonwealth, or that the applicant:

1552 1. Has knowingly made a false statement of a material fact in the application, or has deliberately  
1553 failed to disclose any information requested by the Commission;

1554 2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with gaming  
1555 operations in this or any other state;

1556 3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the  
1557 Commission;

1558 4. Has had a permit to engage in activity related to riverboat gaming denied for cause, suspended or  
1559 revoked in any other state, and such denial, suspension or revocation is still in effect;

1560 5. Is unqualified to perform the duties required for the permit sought; or

1561 6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering,  
1562 fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery,  
1563 embezzlement, administration or possession of drugs or any crime considered by the Commission to be  
1564 detrimental to riverboat gaming in the Commonwealth.

1565 C. The Commission may refuse to issue a service permit if for any reason it determines the granting  
1566 of such permit is not consistent with the provisions of this chapter or any regulations promulgated by  
1567 any other agencies of the Commonwealth.

1568 § 59.1-405.27. Suspension or revocation of service permit; civil penalty.

1569 Upon reasonable notice and an opportunity for hearing, the Commission may suspend or revoke a  
1570 service permit issued under this chapter or assess a civil penalty against the holder of such permit in a  
1571 sum not to exceed \$10,000, in any case where it determines that any provision of this chapter, or any  
1572 regulation, order, or condition of the Commission, has not been complied with, or has been violated.  
1573 The Commission may revoke or suspend such permit, upon notice and opportunity for hearing, if it finds  
1574 that facts not known by it at the time it was considering the application indicate that such permit should  
1575 not have been issued. Deliberations of the Commission under this section shall be conducted pursuant to  
1576 the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.). If any permit is suspended  
1577 or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such  
1578 action shall be final unless an appeal is taken in accordance with § 59.1-405.11. Suspension or  
1579 revocation of a permit by the Commission for any violation shall not preclude criminal liability for such  
1580 violation.

1581 Article 6.

1582 Conduct of Gaming.

1583 § 59.1-405.28. Conduct of gaming.

1584 A. Gaming may be conducted by licensed operators aboard riverboats, subject to the following  
1585 standards:

1586 1. No gaming operations may be conducted on docks or other appurtenant facilities of a riverboat  
1587 other than a training school. No gaming may be conducted aboard a riverboat when it is docked except  
1588 (i) during embarkation and disembarkation of passengers immediately preceding and following actual  
1589 cruising, pursuant to such limitations as may be established by the Commission, or (ii) when under  
1590 highly unusual conditions the master of the vessel deems it unsafe to leave the dock due to weather or  
1591 environmental conditions, or the Commission determines, after consultation with the U.S. Army Corps of  
1592 Engineers or other responsible federal or state agencies, that the waterway on which the riverboat is  
1593 licensed to cruise has become nonnavigable. Upon a determination pursuant to clause (ii), the licensed  
1594 operator shall advise all passengers prior to their embarkation that the riverboat will not depart the  
1595 dock. After having embarked, passengers shall not be permitted to disembark prior to the scheduled end  
1596 of the excursion, except under circumstances that would constitute an emergency or for a period not to  
1597 exceed thirty minutes as determined by Commission regulations, to permit the orderly embarkation and

disembarkation of passengers by the licensee.

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

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

4. Agents of the Commission and the Department of State Police may board and inspect any riverboat at any time for the purpose of determining compliance with this chapter. Every riverboat, if under way and being hailed by a law-enforcement officer or agent of the Commission, shall stop immediately and lay to.

5. Employees of the Commission shall have the right to be present on the riverboat or on adjacent facilities under the control of the licensee.

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

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

8. Wagers may be received only from a person present on a licensed riverboat. No person present on a licensed riverboat shall place or attempt to place a wager on behalf of another person who is not present on the riverboat.

9. A person under age twenty-one shall not be permitted on a riverboat when gaming is being conducted, except that persons age eighteen or older may serve in nongaming positions of employment. No person under age twenty-one shall be permitted to make a wager under this chapter.

10. Riverboat gaming wagers shall be conducted only with money or with tokens, chips or electronic cards purchased from a licensed operator aboard a riverboat or in a facility appurtenant to such riverboat which is accessible only to persons who have qualified for admission to a gaming excursion and are awaiting embarkation. Such tokens, chips or electronic cards may be used while aboard the riverboat only for the purpose of making wagers on games.

11. Riverboats shall have a capacity of not less than 400 passengers.

12. No licensee or permit holder shall accept postdated checks in payment for participation in any gaming operation.

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

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

#### Article 7.

#### Taxation and Audit.

§ 59.1-405.29. Wagering tax; rate; distribution.

A. A tax at the rate of twenty percent shall be imposed on the adjusted gross receipts received from games authorized under this chapter. The taxes imposed by this section shall be paid by the licensed operator to the Commission no later than the close of the business day following the day when the adjusted gross receipts were received, shall be accompanied by forms or returns in a format prescribed by the Commission, and, upon receipt by the Commission, shall be deposited in the State Riverboat Gaming Operations Fund established pursuant to § 59.1-405.13.

The Commission may suspend or revoke the license of an operator for willful failure to (i) submit the wagering tax payment or (ii) submit such payment within the time required by this subsection.

B. The proceeds of the tax imposed pursuant to subsection A, and that portion of the admission tax levied pursuant to § 59.1-405.30 which accrues to the Commonwealth, net of the costs of operation and administration of the Commission paid from the Fund pursuant to § 59.1-405.13, shall be distributed from the State Riverboat Gaming Operations Fund in the following manner:

1. Twenty-five percent shall be paid to the localities where the riverboats dock, allocated among such localities in proportion to the adjusted gross receipts arising from each locality. Such payment shall be paid quarterly by the Commonwealth to the treasurer of such locality.

The locality designated as the home dock of the riverboat may enter into agreements with other localities in the Commonwealth to share its portion of the tax revenue or to permit such riverboat to dock, embark and disembark from such localities, provided riverboat gaming has been approved in all such localities in accordance with § 59.1-405.38.

2. Ten percent shall be transferred to the Governor's Defense Conversion Fund established by the general appropriations act.

3. Fifteen percent shall be transferred to the Northern Virginia Transportation District Program Fund established by § 58.1-815.1.

4. Two percent shall be transferred to the Department of Emergency Services, which shall make such funds available upon application to localities for response to and remediation of environmental

1659 degradation, both actual and imminent, arising from landfills or former landfills which have not been  
1660 closed in accordance with applicable state and federal law and regulations and with respect to which  
1661 no other source of funding or reimbursement for response and remediation efforts is available  
1662 notwithstanding good-faith efforts to obtain such funding or reimbursement.

1663 5. One-half of one percent shall be transferred to the Department of Mental Health, Mental  
1664 Retardation and Substance Abuse Services and utilized by the Department for the support of programs  
1665 assisting problem gamblers. Such programs may in the discretion of the Department be operated by it,  
1666 by local community services boards, or by private providers under contract to the Department or local  
1667 community services boards.

1668 C. The remainder of the funds generated by this chapter and not otherwise allocated shall be paid  
1669 into the general fund.

1670 § 59.1-405.30. Admission tax.

1671 A. A tax is imposed upon admissions to gaming excursions authorized pursuant to this chapter at a  
1672 rate of two dollars per person admitted. This admission tax is imposed upon the licensed operator  
1673 conducting the gaming excursion.

1674 1. If tickets are issued which are good for more than one gaming excursion, the admission tax shall  
1675 be paid for each person using the ticket on each gaming excursion for which the ticket is used.

1676 2. If free passes or complimentary admission tickets are issued, the licensee shall pay the same tax  
1677 upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate.

1678 3. The riverboat licensee may issue tax-free passes to actual and necessary officials and employees  
1679 of the licensee or other persons actually working on the riverboat.

1680 4. The number and issuance of tax-free passes shall be subject to regulations of the Commission, and  
1681 a list of all persons to whom the tax-free passes are issued shall be filed with the Commission.

1682 B. From the two-dollar tax imposed under subsection A, the county or city where the riverboat is  
1683 docked shall receive from the Commonwealth one dollar. The city or county share shall be collected by  
1684 the Commission on behalf of the Commonwealth and paid quarterly by the Commonwealth to the  
1685 treasurer of the unit of local government for deposit in its general fund, and shall be in lieu of local  
1686 admission taxes.

1687 C. The licensed operator shall pay the entire admission tax to the Commission. Such payments shall  
1688 be made at the time prescribed for paying the wagering tax. Accompanying each payment shall be a  
1689 return in a form prescribed by the Commission which shall include other information regarding  
1690 admissions as the Commission may require. The Commission may suspend or revoke the license of an  
1691 operator for willful failure to submit either the payment or the return within the specified time.

1692 Article 8.

1693 Prohibited Acts; Penalties.

1694 § 59.1-405.31. Illegal operation; penalty.

1695 A. No person shall:

1696 1. Operate a gaming excursion where wagering is used or to be used without a license issued by the  
1697 Commission.

1698 2. Operate a gaming excursion where wagering is permitted other than in the manner specified by  
1699 this chapter.

1700 3. Offer, promise, or give anything of value or benefit to a person who is connected with a riverboat  
1701 including, but not limited to, an officer or employee of a licensed operator or permit holder, pursuant to  
1702 an agreement or arrangement or with the intent that the promise or thing of value or benefit will  
1703 influence the actions of the person to whom the offer, promise, or gift was made in order to affect or  
1704 attempt to affect the outcome of a game, or to influence official action of a member of the Commission  
1705 or a local governing body.

1706 4. Solicit or knowingly accept or receive a promise of anything of value or benefit while the person  
1707 is connected with a riverboat including, but not limited to, an officer or employee of a licensed  
1708 operator, or permit holder, pursuant to an understanding or arrangement or with the intent that the  
1709 promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect  
1710 the outcome of a gaming game, or to influence official action of a member of the Commission or a local  
1711 governing body.

1712 5. Use or possess with the intent to use a device to assist:

1713 a. In projecting the outcome of a game;

1714 b. In keeping track of the cards played;

1715 c. In analyzing the probability of the occurrence of an event relating to a game; or

1716 d. In analyzing the strategy for playing or betting to be used in a game except as permitted by the  
1717 Commission.

1718 6. Cheat at gaming.

1719 7. Manufacture, sell or distribute any cards, chips, dice, games or devices which are intended to be  
1720 used to violate any provision of this chapter.

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

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

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

11. Use counterfeit chips or tokens in a game.

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

13. Wager on the outcome of sporting events.

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

§ 59.1-405.32. Fraudulent use of credential; penalty.

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

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

§ 59.1-405.33. Persons under twenty-one years of age prohibited; penalty.

No person shall wager on or conduct any wagering on the outcome of a game pursuant to the provisions of this chapter unless such person is twenty-one years of age or older. No person shall accept any wager from a person under age twenty-one. A violation of this section shall be a Class 1 misdemeanor.

§ 59.1-405.34. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates or combines with another, either within or without this Commonwealth, to commit a felony prohibited by this chapter shall be guilty of a Class 4 felony.

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

§ 59.1-405.35. Civil penalties.

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

§ 59.1-405.36. Forfeiture of personal property.

Any riverboat and gaming device thereon used for the conduct of games or employee training without a license as required by this chapter shall be considered contraband and forfeited to the Commonwealth. Proceedings for such confiscation shall be in accordance with Chapter 22 (§ 19.2-369 et seq.) of Title 19.2.

§ 59.1-405.37. Operation on waterways legal.

If this chapter shall become effective in any city or county in which a riverboat is docked, the riverboat operator may lawfully cruise the riverboat in all waters within the route described in the operator's license.

§ 59.1-405.38. Local referendum required.

A. The Commission shall not grant any license to operate riverboats unless a referendum approving the question stated below has been held in each county or city in which such riverboats are to be docked in the following manner:

1. A petition, signed by five percent of the registered voters of such county or city as of the January 1 preceding the filing of the petition, or a petition or resolution of the governing body of such county or city, shall be filed with the circuit court of such county or city in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, asking that a referendum be held on the question, "Shall riverboat gaming be permitted in [name of county or city] in accordance with Chapter 29.1 (§ 59.1-405.1 et seq.)

1782 of Title 59.1 of the Code of Virginia?"

1783 2. Following the filing of such petition, the court shall, by order of record, call a referendum in  
1784 accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2

1785 B. No such referendum as described above shall be held more often than once in every three years  
1786 in the same county or city.

1787 C. A subsequent local referendum shall be required if a license for riverboat gaming in such city or  
1788 county has not been granted by the Commission within five years of the court order proclaiming the  
1789 results of the election.

1790 D. Notwithstanding any other provision of this chapter, riverboat gaming shall become effective only  
1791 in those cities and counties which adopt the provisions of this chapter by referendum, and all local acts,  
1792 including charter provisions and ordinances of cities and towns, inconsistent with the provisions of this  
1793 chapter shall be thereby repealed to the extent of such inconsistency. The governing body of each city  
1794 or county in which this chapter has become effective may adopt ordinances including zoning, land use,  
1795 and design review ordinances, regulating riverboat gaming activities in a manner which is fair to and  
1796 nondiscriminatory among applicants and is in furtherance of the purpose of this chapter.

1797 2. That the provisions of § 59.1-405.38 relating to the conduct of local referenda shall become  
1798 effective July 1, 1995, so that a local referendum may be conducted at the general election in  
1799 November 1995.

1800 3. That except as provided by the second enactment of this act, the enactment of the first  
1801 enactment of this act shall become effective only if approved by a majority of those voting in a  
1802 statewide referendum to be conducted at the general election in November 1995, as follows:

1803 a. It shall be the duty of the officers conducting the election directed by law to be held on the  
1804 Tuesday after the first Monday in November 1995, at the places appointed for holding the same, to open  
1805 a poll and take the sense of the qualified voters upon their approval of the first enactment of this act as  
1806 provided herein.

1807 b. At such election a ballot shall be furnished each voter which shall have printed thereon the  
1808 following question:

1809 Question: "Shall the Economic Development and Riverboat Gaming Act of 1995, which promotes  
1810 economic development through job creation and authorizes riverboat gaming in certain cities and  
1811 counties in eastern Virginia, provides for its regulation, and dedicates net tax revenues arising from such  
1812 gaming to defense conversion, transportation, mental health, environmental issues, and the general fund,  
1813 become effective in the Commonwealth?"

1814 The ballot shall be prepared, distributed and voted and the results thereof ascertained and certified in  
1815 the manner prescribed by general law and § 24.2-684. It shall be the duty of the electoral board of each  
1816 county and city to make out, certify and forward an abstract of the votes cast for and against such  
1817 proposition in the manner prescribed by law for the votes cast in general elections.

1818 It shall be the duty of the State Board of Elections to open and canvass the abstracts of returns, and  
1819 to examine and make statement of the whole number of votes given at such election for and against  
1820 such proposition, in the manner now prescribed by law for votes cast in general elections; it shall be the  
1821 duty of the State Board of Elections to record such certified statement in its office and without delay to  
1822 make out and transmit to the Governor an official copy of such statement, certified by it.

1823 The Governor shall, without delay, make proclamation of the result, stating therein the aggregate vote  
1824 for and against such proposition. If a majority of votes cast are for the proposition, the first enactment  
1825 of this act shall become effective on January 1, 1996.

1826 At least thirty days prior to the election, the State Board of Elections shall cause to be sent to  
1827 electoral boards of each county and city sufficient copies of the Economic Development and Riverboat  
1828 Gaming Act of 1995 to be posted in each polling place on election day. The expenses incurred in  
1829 conducting this election shall be defrayed as in the case of the election of members of the General  
1830 Assembly.

1831 3. That the provisions of the first enactment of this act, other than § 59.1-405.38, shall become  
1832 effective on January 1, 1996, if approved by a majority of the voters voting in the November 1995  
1833 statewide referendum.

1834 4. That contingent upon the approval of this act by the voters in the referendum provided for in  
1835 the second enactment, there is hereby appropriated a sum sufficient to initiate operations of the  
1836 Virginia Riverboat Gaming Commission. Pending appropriation of funds within the general  
1837 appropriations act by the 1996 Session of the General Assembly, the Governor is hereby  
1838 authorized, following approval of the referendum, to release the appropriation of any nongeneral  
1839 funds. After July 1, 1997, no funds shall be released or appropriated to the Virginia Riverboat  
1840 Gaming Commission in excess of the amount deposited in the general fund of the Commonwealth  
1841 pursuant to §§ 59.1-405.29 and 59.1-405.30, reduced by any amounts previously released or  
1842 appropriated.

1843 5. That the provisions of this act may result in a net increase in periods of imprisonment in state

1844 correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation  
1845 is \$ 250,000.000.

INTRODUCED

HB2400