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HOUSE BILL NO. 1131

Offered January 22, 1996

A BILL to amend and reenact §§ 4.1-128, 4.1-209, 4.1-210, 4.1-231, 4.1-233, and 4.1-325 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3732.1:1 and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 through 58.1-4105, relating to the taxation of, and license and permit fees with respect to, waterborne gaming.

Patrons—Robinson, Heilig and Jones, J.C.; Senator: Marsh

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-128, 4.1-209, 4.1-210, 4.1-231, 4.1-233, and 4.1-325 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3732.1:1 and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 through 58.1-4105, as follows:

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

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

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

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charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

D. No county, city or town which has approved waterborne gaming shall adopt any ordinance or resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a boat upon which waterborne gaming is conducted pursuant to applicable law.

§ 4.1-209. Wine and beer licenses.

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

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

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

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

c. Persons operating boats for which (i) certificates as a sight-seeing carrier by boat, or a special or charter party by boat have been issued by the Department of Motor Vehicles pursuant to § 46.2-2607 or (ii) licenses to engage in any form of waterborne gaming have been issued pursuant to applicable law, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

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

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

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

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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 or in any city with a population between 392,000 and 394,000. 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, *including without limitation, any boat upon which waterborne gaming is conducted pursuant to applicable law*, 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, 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;

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

183 town or in a rural area outside the corporate limits of any city or town, \$230; and

184 h. Gourmet brewing shop, \$175.

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

186 a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a
187 common carrier of passengers by train, boat or airplane, \$230; for each such license to a common
188 carrier of passengers by train or boat, \$230 per annum for each of the average number of boats, dining
189 cars, buffet cars or club cars operated daily in the Commonwealth; ~~and~~; for each such license granted to
190 a common carrier of passengers by airplane, \$575; *and for each such license granted to the operator of*
191 *a boat upon which waterborne game is conducted pursuant to applicable law, \$1.00 per authorized*
192 *wagering device or position at a wagering game or gaming table aboard such boat;*

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

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

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

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

198 5. Mixed beverage licenses. - For each:

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

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

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

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

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

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

207 (ii) With an average yearly membership of more than 200 but not more than 500 resident members,
208 \$1,430; and

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

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

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

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

213 f. Mixed beverage carrier licenses:

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

216 (ii) \$430 for each common carrier of passengers by boat, *except as provided in subdivision (iv); and*

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

218 (iv) *\$1.00 per authorized wagering device or position at a wagering game or gaming table aboard*
219 *any boat upon which waterborne gaming is conducted pursuant to applicable law.*

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

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

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

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

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

240 C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state
241 restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter,
242 shall be liable to state merchants' license taxation and state restaurant license taxation and other state
243 taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer
244 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;

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; and

e. Gourmet brewing shop, \$150.

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 for up to 100 persons, \$200;

(ii) With a seating capacity at tables for 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, *including any boat upon which waterborne gaming is conducted pursuant to applicable law*, 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.

306 D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any
307 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such
308 wholesaler maintains no place of business in such county, city or town.

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

312 § 4.1-325. Prohibited acts by mixed beverage licensees; penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

354 § 58.1-3732.1:1. *Limitation on gross receipts; waterborne gaming.*

355 *Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not*
356 *include the waterborne gaming receipts and admissions taxes established under §§ 58.1-4102 and*
357 *58.1-4103, respectively.*

358 CHAPTER 41.

359 WATERBORNE GAMING TAXES.

360 § 58.1-4100. *Definitions.*

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

362 *"Adjusted gross receipts" means the gross receipts from any and all games of chance conducted*
363 *upon waterborne vessels operating in or upon the waters of the Commonwealth, less the winnings which*
364 *may be paid to winners in accordance with applicable provisions of general law.*

365 *"Board" means the State Lottery Board established pursuant to Chapter 40 (§ 58.1-4000 et seq.) of*
366 *Title 58.1.*

367 *"Department" shall mean the State Lottery Department established pursuant to Chapter 40 of Title*

58.1.

"Gross receipts" means the total amount of money wagered or exchanged for the purchase of chips, tokens, or electronic cards for wagering by persons aboard any waterborne vessel upon which wagering or games of chance are conducted in or upon the waters of the Commonwealth.

"Waterborne gaming" means any and all games of chance and wagering in any form, including without limitation baccarat, blackjack, twenty-one, poker, craps, dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, and pull tab, conducted upon any vessel while such vessel is in or upon the waters of the Commonwealth.

"Waterborne gaming excursion" means any voyage upon a vessel during which waterborne gaming is conducted. The Board shall have the authority to promulgate regulations establishing maximum time limits for waterborne gaming excursions.

§ 58.1-4101. Waterborne Gaming Fund.

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

B. The total costs of the operation and administration of any program established pursuant to general law, whose primary purpose is the regulation of waterborne gaming, shall be funded from the Waterborne Gaming Fund and shall be in such amount as may be provided in the general appropriations act.

§ 58.1-4102. Waterborne gaming receipts tax.

A. A tax at the rate of twenty percent is hereby imposed on the adjusted gross receipts received from waterborne gaming conducted in or upon the waters of the Commonwealth.

B. The tax imposed by this section shall be paid to the Department by any person liable hereunder 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 Department, and, upon receipt by the Department, shall be deposited in the Waterborne Gaming Fund established pursuant to § 58.1-4101.

C. The issuing authority of any license or permit provided for by general law and relating to waterborne gaming may suspend or revoke such license for willful failure to (i) pay the waterborne gaming receipts tax imposed by this section or (ii) submit such payment within the time required by this section.

§ 58.1-4103. Waterborne gaming admissions tax.

A. A tax at the rate of two dollars per person admitted is hereby imposed upon every person who operates a vessel upon which waterborne gaming is conducted in or upon the waters of the Commonwealth.

B. For the purposes of this section:

1. A person shall be deemed to be admitted to a vessel engaged in waterborne gaming upon his embarkation thereupon. Each waterborne gaming excursion upon which a person admitted to such vessel is present shall constitute a separate, taxable admission for the purposes of this section.

2. If a person subject to the tax imposed by this section admits persons to a vessel engaged in waterborne gaming by means of tickets which are good for more than one waterborne gaming excursion, the admission tax established pursuant to this section shall be paid for each person using the ticket on each gaming excursion for which the ticket is used.

3. The tax imposed pursuant to this section shall be due and payable with respect to each person admitted to a vessel engaged in waterborne gaming by means of any free pass or complimentary ticket, notwithstanding the fact that such person has paid no consideration for such admission.

4. Notwithstanding the provisions of subsection B 2, no admission tax shall be due with respect to actual and necessary officials and employees of any person authorized to conduct gaming excursions pursuant to applicable law and such regulations as the Board may from time to time promulgate with respect to such tax-free admissions.

C. The tax imposed by this section shall be paid to the Department by any person liable hereunder no later than the close of the business day following the day when the person for whose admission the tax is assessed, is admitted. The tax shall be accompanied by forms or returns in a format prescribed by the Department and, upon receipt by the Department, shall be deposited in the Waterborne Gaming Fund established pursuant to § 58.1-4101.

D. The issuing authority of any license or permit provided for by general law and relating to waterborne gaming may suspend or revoke such license for willful failure to (i) pay the waterborne gaming admissions tax imposed by this section or (ii) submit such payment within the time required by this section.

§ 58.1-4104. Disposition of Waterborne Gaming Fund.

The proceeds of the Waterborne Gaming Fund, less the costs of operation and administration of any

429 program paid pursuant to § 58.1-4101 B, shall be distributed from the fund in the following manner:

430 1. Twenty-five percent of such net proceeds shall be paid to the localities in which vessels upon
431 which waterborne gaming is conducted pursuant to applicable law, dock, shall be allocated among such
432 localities in proportion to the total waterborne gaming receipts tax and waterborne gaming admissions
433 tax revenues arising from each such locality. Such payment shall be paid quarterly by the
434 Commonwealth to the treasurer of each locality.

435 2. The funds remaining in the Fund after the payment required by subdivision 1 shall be distributed
436 as follows:

437 a. Thirty-three percent shall be transferred to the general fund and used exclusively for the purpose
438 of supporting public education in Virginia's public schools and public institutions of higher education in
439 accordance with the provisions of the general appropriations act.

440 b. Thirty-three percent shall be transferred to the Transportation Trust Fund established pursuant to
441 § 33.1-23.03:1 and shall be allocated within the Transportation Trust Fund to support transportation
442 improvements in the Commonwealth in accordance with the provisions of § 58.1-638 A.

443 c. Thirty-three percent shall be transferred to the Virginia Economic Development Partnership and
444 used exclusively for the purpose of assisting local and regional economic development efforts in the
445 Commonwealth in accordance with the provisions of the general appropriations act.

446 d. One percent shall be transferred to the Department of Mental Health, Mental Retardation and
447 Substance Abuse Services and utilized by such Department for the support of such programs assisting
448 problem gamblers as may be provided for in the general appropriations act. Such programs may in the
449 discretion of such Department be operated by it, by local community services boards, or by private
450 providers under contract to such Department or local community services boards.

451 § 58.1-4105. License and permit fees.

452 The Board is authorized to establish by regulation, application, license and permit fees relating to
453 waterborne gaming conducted pursuant to general law in the following amounts:

454 1. For any application for a license to conduct waterborne gaming in or upon the waters of the
455 Commonwealth, a fee of \$50,000, or the costs of any background investigation required to be conducted
456 by general law in conjunction with such licensing, whichever is greater. Any such license shall be
457 renewed annually at a fee to be determined by Board, and is not transferable.

458 2. For any permit authorizing a person to supply goods or services to a person conducting
459 waterborne gaming, a nonrefundable application fee in an amount not to exceed \$1,000, and an initial
460 permit fee of \$5,000 for each permit issued. Any such permit shall be renewed annually at a fee to be
461 determined by the Board, not to exceed \$5,000, and is not transferable.

462 3. For any permit authorizing a person to serve the operator of a vessel engaged in waterborne
463 gaming in the capacity of an employee, concessionaire, contractor, or any other occupation the Board
464 considers necessary to regulate in order to ensure the integrity of waterborne gaming, a nonrefundable
465 application fee, an initial permit fee, and permit renewal fees in amounts to be established by the
466 Board.

467 2. That this act shall become effective on July 1, 1997.