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## HOUSE BILL NO. 1132

Offered January 22, 1996

A BILL to amend and reenact §§ 2.1-342, 4.1-128, 4.1-233, and 4.1-325 of the Code of Virginia; 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, 58.1-4007.1, 58.1-4007.2, and 59.1-368.1 and by adding in Title 59.1 a chapter numbered 29.2, consisting of articles numbered 1 through 8, containing sections numbered 59.1-405.2 through 59.1-405.34, relating to the State Lottery Board; the creation of the Economic Development and Riverboat Gaming Act of 1996, including the authorization of riverboat gaming; multistate lottery games and keno; and to provide for referenda relating thereto; penalties.

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 §§ 2.1-342, 4.1-128, 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 in Chapter 3 of Title 11 a section numbered 11-16.1; by adding sections numbered 18.2-334.5, 58.1-4007.1 and 58.1-4007.2, and 59.1-368.1; and by adding in Title 59.1 a chapter numbered 29.2, consisting of articles numbered 1 through 8, containing sections numbered 59.1-405.2 through 59.1-405.34, as follows:

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

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

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60 preparing documents produced from a geographic information system at the request of anyone other than  
61 the owner of the land that is the subject of the request. However, such charges shall not exceed the  
62 actual cost to the public body in supplying such records or documents, except that the public body may  
63 charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public  
64 body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres.  
65 Such charges for the supplying of requested records shall be estimated in advance at the request of the  
66 citizen. The public body may require the advance payment of charges which are subject to advance  
67 determination.

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

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

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

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

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

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

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

105 2. (Effective until July 1, 1996) Confidential records of all investigations of applications for licenses  
106 and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control  
107 Board, the State Lottery Department or the Virginia Racing Commission.

108 2. (Effective July 1, 1996) Confidential records of all investigations of applications for licenses and  
109 permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control  
110 Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming  
111 Commission.

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

120 Where the person who is the subject of medical records is confined in a state or local correctional  
121 facility, the administrator or chief medical officer of such facility may assert such confined person's right

of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

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

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992 nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

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

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

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

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

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

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

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such 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 the 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, the Virginia Economic Development Partnership, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.
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 of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.
29. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.
30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.
31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or

licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section 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.

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

- (i) Security manuals, including emergency plans that are a part thereof;
- (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;
- (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;
- (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; 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 complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

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

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

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

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

34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body 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,

306 advertising, or marketing, where such official records have not been publicly released, published,  
307 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall  
308 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game  
309 to which it pertains.

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

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

323 40. [Repealed.]

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

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

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

330 44. [Repealed.]

331 45. Investigative notes; correspondence and information furnished in confidence with respect to an  
332 investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided  
333 to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review  
334 Commission; or investigative notes, correspondence, documentation and information furnished and  
335 provided to or produced by or for the Department of the State Internal Auditor with respect to an  
336 investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this  
337 chapter shall prohibit disclosure of information from the records of completed investigations in a form  
338 that does not reveal the identity of complainants, persons supplying information or other individuals  
339 involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of  
340 information from the records of completed investigations shall include, but is not limited to, the agency  
341 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and  
342 the actions taken to resolve the complaint. In the event an investigation does not lead to corrective  
343 action, the identity of the person who is the subject of the complaint may be released only with the  
344 consent of the subject person.

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

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

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

357 49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and  
358 its wholly owned subsidiaries, (i) proprietary information provided by, and financial information  
359 concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition,  
360 acquisition, disposition, use, leasing, development, coventuring, or management of real estate the  
361 disclosure of which would have a substantial adverse impact on the value of such real estate or result in  
362 a competitive disadvantage to the corporation or subsidiary.

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

366 51. Confidential proprietary information furnished to the Board of Medical Assistance Services or the  
367 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. 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. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

61. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

62. Reports, documents, memoranda or other information or materials provided to or held by the State Lottery Department or Lottery Board which describe any aspect of security used by the holder of

any license issued by the Lottery Board pursuant to Chapter 29.2 (§ 59.1-405.2 et seq.) of Title 59.1, to the extent that disclosure or public dissemination of such materials would jeopardize the security of any riverboat or appurtenant facility operated by such licensee, including, but not limited to:

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

b. Surveillance techniques;

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

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

e. Operation of a riverboat involving:

(1) Handling and security of moneys, chips, tokens and similar indicia of value; or

(2) Measures designed or taken to detect or prevent any act which would constitute a crime pursuant to Chapter 29.2 (§ 59.1-405.2 et seq.) of Title 59.1.

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

§ 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 riverboat gaming shall adopt any ordinance or resolution regulating or prohibiting drinking or the use or dispensing of alcoholic beverages on a riverboat as defined in Chapter 29.2 (§ 59.1-405.2 et seq.) of Title 59.1.

§ 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:
- Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
    - With a seating capacity at tables for up to 100 persons, \$200;
    - With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
    - With a seating capacity at tables for more than 150 persons, \$500.
  - Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
  - Mixed beverage caterer's license, \$500; and
  - 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, airplanes, or riverboats licensed pursuant to Chapter 29.2 (§ 59.1-405.2 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 wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.
- E. Application of county tax within town. - Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.
- § 4.1-325. Prohibited acts by mixed beverage licensees; penalty.
- A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:
- Sell or serve any alcoholic beverage other than as authorized by law;
  - Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
  - Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;
  - Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
  - Misrepresent the brand of any alcoholic beverage sold or offered for sale;
  - Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except in a frozen drink dispenser of a type approved by the Board and in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine;
  - Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage;
  - Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
  - Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;
  - Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
  - Allow any immoral, lewd, obscene, indecent or profane conduct, language, literature, pictures,

552 performance or materials on the licensed premises;  
553 12. Allow any striptease act, or the like on the licensed premises;  
554 13. Allow persons connected with the licensed business to appear nude or partially nude;  
555 14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty;  
556 15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license  
557 whether the closure is broken or unbroken except in accordance with § 4.1-210;  
558 16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;  
559 17. Conceal any sale or consumption of any alcoholic beverages;  
560 18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or  
561 obstruct special agents of the Board in the discharge of their duties;  
562 19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any  
563 such alcoholic beverages from the premises;  
564 20. Allow any person to receive a percentage of the income of the licensed business or have any  
565 beneficial interest in such business, except in accordance with Board regulations;  
566 21. Knowingly employ in the licensed business any person who has the general reputation as a  
567 prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person  
568 who drinks to excess or engages in illegal gambling; or 22. Keep on the licensed premises a *prohibited*  
569 slot machine or any prohibited gambling or gaming device, machine or apparatus.  
570 B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.  
571 *§ 11-16.1. Exemptions from chapter.*  
572 *This chapter shall not apply to any bet, wager, or gaming permitted by Chapter 29.2 (§ 59.1-405.2 et*  
573 *seq.) of Title 59.1 or to any contracts, conduct, or transactions arising from conduct lawful thereunder.*  
574 *§ 18.2-334.5. Exemptions from article; riverboat gaming.*  
575 *Nothing in this article shall be construed to make it illegal to participate in any riverboat gaming*  
576 *activity conducted in accordance with Chapter 29.2 (§ 59.1-405.2 et seq.) of Title 59.1.*  
577 *§ 58.1-4007.1. Participation in multistate lottery games.*  
578 *The Board may, if it determines it is in the best interests of the Commonwealth, adopt regulations*  
579 *providing for the participation by citizens of the Commonwealth in multistate lottery games in which*  
580 *tickets or shares are sold, and prizes are aggregated, on a multistate basis.*  
581 *§ 58.1-4007.2. Keno.*  
582 *The Board may, if it determines it is in the best interests of the Commonwealth, adopt regulations*  
583 *providing for the conduct of keno. For the purposes of this section, "keno" means any game of chance,*  
584 *known by whatever name, in which the winner is determined in a two-step process by players first*  
585 *selecting a collection of numbers on a card purchased by them which then must be matched, in order to*  
586 *win, with numbered balls or counters, selected at random, which are displayed upon a board or screen,*  
587 *whether electronic or not.*  
588 *§ 59.1-368.1. Financial interest in riverboat gaming prohibited.*  
589 *No member or employee of the Commission, and no spouse or immediate family member of any such*  
590 *member or employee, shall have any financial interest, direct or indirect, in any person holding a*  
591 *license as operator or supplier under Chapter 29.2 (§ 59.1-405.2 et seq.) of Title 59.1.*  
592 *CHAPTER 29.2.*  
593 *ECONOMIC DEVELOPMENT AND RIVERBOAT GAMING ACT OF 1996.*  
594 *Article 1.*  
595 *General Provisions.*  
596 *§ 59.1-405.2. Short title.*  
597 *This chapter may be referred to as the Economic Development and Riverboat Gaming Act of 1996.*  
598 *§ 59.1-405.3. Definitions.*  
599 *As used in this chapter, unless the context requires a different meaning:*  
600 *"Board" means the State Lottery Board created pursuant to Chapter 40 (§ 58.1-4000 et seq.) of Title*  
601 *58.1.*  
602 *"Cheat" means to alter the selection criteria which determine the result of a game or the amount or*  
603 *frequency of payment in a game for the purpose of obtaining an advantage for one or more participants*  
604 *in a game over other participants in a game.*  
605 *"Department" means the State Lottery Department created pursuant to Chapter 40 of Title 58.1.*  
606 *"Designated navigable waters" means (i) those portions of the Rappahannock River, James River,*  
607 *York River, Elizabeth River, and Appomattox River, and their respective tidal bays, inlets, and primary*  
608 *tributaries, extending from the Commonwealth's territorial sea to the fall line and (ii) the territorial sea*  
609 *and its tidal bays, inlets, and primary tributaries, including the Chesapeake Bay and Hampton Roads.*  
610 *"Dock" means the location on designated navigable waters where a riverboat moors for the purpose*  
611 *of embarking passengers for, and disembarking passengers from, a gaming excursion.*  
612 *"Entity" means a person which is not a natural person.*  
613 *"Gaming" or "game" includes, but is not limited to, baccarat, blackjack, twenty-one, poker, craps,*

dice, slot machine, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab or any other activity which is authorized by the Board as a wagering game or device under this chapter.

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

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

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

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

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

"Licensee" or "license holder" means any person holding an operator's license pursuant to this chapter.

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

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

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

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

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

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

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

§ 59.1-405.4. Regulation and control of riverboat gaming.

A. Gaming shall be licensed and permitted as herein provided aboard riverboats meeting the requirements of this chapter on designated navigable waters within the boundaries of the Commonwealth to benefit the people of the Commonwealth. The Board is vested with control of all riverboat gaming in the Commonwealth, with plenary power to prescribe regulations and conditions under this chapter. The purposes of this chapter are to assist economic development, promote tourism, and provide for the implementation of gaming operations of the highest quality, honesty, and integrity, and free of any corrupt, incompetent, dishonest or unprincipled practices and to further these ends by promoting prompt deployment of vessels; by establishing criteria for size, operation, design, and licensing of riverboats; 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 Board 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.

§ 59.1-405.5. Financial interests of Board members, Department employees and family members prohibited.

No member of the Board, no employee of the Department, and no spouse or immediate family member of any such member or employee shall have any financial interest, direct or indirect, 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. No member of the Board, no employee of the Department, and no spouse or immediate family member of any such member or employee, shall participate as a principal or owner of a riverboat, or have any pecuniary interest in the winnings from any gaming operation.

§ 59.1-405.6. Powers and duties of the Board.

The Board 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 Board is vested with jurisdiction to issue permits and licenses under this chapter, to supervise

675 all riverboat gaming operations licensed under the provisions of this chapter, and to supervise the  
676 activities of all persons conducting, participating in, or attending any riverboat gaming operation. It  
677 shall employ such persons to be present at riverboat gaming operations as are necessary to ensure that  
678 such operations are conducted with order and the highest degree of integrity. It may eject or exclude  
679 from a riverboat and appurtenant facilities any person, whether or not he possesses a license or permit,  
680 whose conduct or reputation is such that his presence may, in the opinion of the Board, reflect  
681 adversely on the honesty and integrity of riverboat gaming, or interfere with the orderly conduct of  
682 riverboat gaming.

683 2. The Board, or its representatives and employees, shall visit, investigate, and have free access to  
684 the offices, riverboats, facilities, or other places of business of any licensee or permit holder and may  
685 compel the production of any of the books, documents, records, or memoranda of any licensee or permit  
686 holder for the purpose of determining that this chapter and Board regulations are strictly complied with.  
687 In addition, the Board may require the production of the annual balance sheets and operating  
688 statements of any person licensed or granted a permit pursuant to the provisions of this chapter and  
689 may require the production of any contract to which such person is or may be a party.

690 3. The Board shall promulgate, and from time to time amend, regulations and conditions under  
691 which riverboat gaming shall be conducted in the Commonwealth and all such other regulations it  
692 deems necessary and appropriate to further the purposes of this chapter. Such regulations shall contain  
693 provisions for (i) affirmative action to ensure participation by minority persons in contracts granted by  
694 the Board and its licensees and (ii) appropriate safety standards for riverboats, including requirements  
695 that all personnel required by the vessel's United States Coast Guard certificate of inspection to operate  
696 the vessel shall be United States Coast Guard certified in lifeboat procedures and marine firefighting  
697 and have received United States Red Cross certification in cardiopulmonary resuscitation. The Board  
698 shall require such safety and rescue equipment and procedures for riverboats as are required by the  
699 United States Coast Guard for vessels of the same or similar type. All regulations of the Board shall be  
700 promulgated in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and may provide  
701 penalties for violations of such regulations.

702 4. If it determines it is in the best interests of the Commonwealth to do so, the Board may revoke the  
703 operator's license of a licensee which fails to begin regular riverboat cruises within eighteen months  
704 after receipt of its license.

705 5. The Board may issue an operator's license only to a person who meets the criteria of  
706 § 59.1-405.13.

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

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

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

717 10. The Board may order such audits, in addition to those required by § 59.1-405.16, as it deems  
718 necessary and desirable.

719 11. The Board shall upon the receipt of a credible complaint of an alleged criminal violation of this  
720 chapter immediately report the complaint to the Attorney General and the State Police for appropriate  
721 action.

722 12. The Board and the Director of the Department shall have the powers, authorities and duties of a  
723 peace officer for the purposes of enforcing the provisions of this chapter.

724 § 59.1-405.7. Fingerprints and background investigations.

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

734 § 59.1-405.8. Hearing and appeal.

735 Any person aggrieved by a refusal of the Board to issue any license or permit, the suspension or  
736 revocation of a license or permit, the imposition of a civil penalty, or any other action of the Board,

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 Board 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.

§ 59.1-405.9. Injunction.

Whenever it appears to the Board 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 Board, 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.

§ 59.1-405.10. Attorney General to serve as counsel.

The Attorney General shall serve as counsel to the Board with respect to its duties arising under this chapter.

Article 2.

Licenses.

§ 59.1-405.11. Operator's license required; license not transferable.

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

§ 59.1-405.12. Application for operator's license; penalty.

A. Any person desiring to operate a riverboat shall file with the Board an application for an operator's license. Such application shall be filed at the place prescribed by the Board, and shall be in such form and contain such information as prescribed by the Board, 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 the 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 Board considers appropriate regarding the character, background and responsibility of the applicant and of the principals, officers and directors of the applicant;

4. A description of the riverboat on which such gaming operations are to be conducted, the city or county where such riverboat will be docked and routes over which it is proposed to be operated, and the number of gaming stations to be provided on the riverboat. The Board shall require such information about a riverboat and its location as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter, and whether the conduct of riverboat gaming operations at such location will be in furtherance of the purposes of this chapter;

5. Such information relating to the financial responsibility of the applicant and the applicant's ability to perform under its license as the Board considers appropriate;

6. If any of the facilities necessary for the conduct of riverboat gaming operations are to be leased, the terms of such lease;

7. The design and layout of each proposed riverboat;

8. If the riverboat is to dock within a locality which has not approved riverboat gaming in the manner herein specified, the date the locality is anticipated to provide such approval;

9. Evidence of compliance by the applicant with the land-use plan and design-review criteria of the locality in which the dock is proposed to be located; and

10. Any other information which the Board in its discretion considers appropriate.

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

C. An application shall be filed with the Board by July 1 of the year preceding any calendar year for which an applicant seeks an operator's license. The Board shall act on applications promptly and in no event later than December 31 of the year in which such application is made. Supplemental information, if requested by the Board and filed by the applicant within the time specified by the Board, shall be deemed filed with the original application.

D. The licensed operator shall be the person primarily responsible for the riverboat itself and compliance with the provisions of this chapter. The applicant shall identify each riverboat it intends to use on an interim basis or permanent basis and certify that each riverboat will: (i) comply with the provisions of this chapter; (ii) be either modeled after a nineteenth century riverboat or be of a cruise ship design; and (iii) be eligible for registration, certification, and licensing in accordance with all applicable laws and regulations.

798 E. A person who knowingly makes a false statement on an application for an operator's license shall  
799 be guilty of a Class 1 misdemeanor.

800 § 59.1-405.13. Issuance of operator's license.

801 A. The Board may issue an operator's license to a person only if it finds that:

802 1. The riverboat and appurtenant facilities the applicant proposes to use on a permanent basis are  
803 or will be appropriate for the finest quality of riverboat gaming operations and that any riverboat and  
804 appurtenant facilities the applicant proposes to use on an interim basis are consistent with the purposes  
805 of this chapter;

806 2. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable  
807 and have been subscribed and will be paid for only in cash or property to the exclusion of past  
808 services;

809 3. All principals have submitted to the jurisdiction of the Virginia courts, and all nonresident  
810 principals have designated the Director of the Department as their agent for receipt of process;

811 4. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and  
812 require the resignation of, any person who is or becomes disqualified under subsection B;

813 5. The applicant meets the criteria established by this chapter and the regulations of the Board for  
814 the granting of an operator's license;

815 6. The applicant is qualified to do business in Virginia and is subject to the jurisdiction of the courts  
816 of the Commonwealth; and

817 7. The applicant is not disqualified to hold a license pursuant to subsection B.

818 B. An applicant shall be disqualified for a license, and the Board shall deny a license to an  
819 applicant, if it finds that for any reason the issuance of a license to the applicant would reflect  
820 adversely on the honesty and integrity of the riverboat gaming industry in the Commonwealth, or that  
821 the applicant, or any officer, principal, manager, or director of the applicant:

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

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

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

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

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

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

836 C. The Board shall issue no more than seven licenses authorizing a riverboat gaming operation;  
837 such licensee shall have no more than one riverboat; and the riverboat shall have no more than 1,200  
838 gaming stations.

839 In determining whether to grant an operator's license to an applicant under this subsection, the  
840 Board shall consider:

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

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

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

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

847 3. Any revenue to be derived by the Commonwealth from the conduct of riverboat gaming by the  
848 applicant;

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

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

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

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

856 8. The economic effects of the proposed construction, maintenance and repair of riverboats on the  
857 ship-building and ship-repair industries of the Commonwealth;

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

10. The compatibility of the applicant's proposed operations with the land-use plan and design-review criteria 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 Board 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.

E. Each operator's license shall specify the city or county and the specific location therein where the riverboat will dock and the designated navigable waters within which the riverboat will operate. The Board may condition any license on the operator's use of permanent or interim riverboat and appurtenant facilities which are substantially the same as those submitted with the application filed with the Board and shall condition each license (i) on the operator's facilities being in compliance with the land-use plan and design-review criteria of the local governing body and (ii) on approval of riverboat gaming by the qualified voters of the locality pursuant to § 59.1-405.34 within twelve months of the date the license is issued.

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

§ 59.1-405.14. Duration, form of operator's license; bond.

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

B. The Board shall require a bond, with surety acceptable to it and in an amount determined by it, sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

§ 59.405.15. Records to be kept; reports.

A. A licensed operator shall keep his books and records which clearly show the following:

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

2. Total amount of gross receipts.

B. The licensed operator shall furnish to the Board reports and information, which the Board may require with respect to its activities, on forms or in a format designated by the Board.

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

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

§ 59.1-405.16. Audit of licensed operations.

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

### Article 3.

#### Supplier's Permits.

§ 59.1-405.17. Supplier's permits; penalty.

A. 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.

B. The Board may issue a supplier's permit to persons upon application therefor, upon a determination by the Board that the applicant is eligible for a supplier's permit. A supplier's permit is not transferable.

C. The holder of a supplier's permit may sell or lease, or contract to sell or lease, gaming equipment and supplies or provide management services to any licensee involved in the ownership or management

921 of gaming operations to the extent provided in said permit.

922 D. Gaming supplies and equipment may not be distributed unless supplies and equipment conform to  
923 standards adopted by the Board.

924 E. A person is ineligible to receive a supplier's permit if:

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

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

929 3. The person is a member or employee of the Board;

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

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

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

937 F. A supplier shall:

938 1. Furnish to the Board a list of all management services, equipment, devices and supplies offered  
939 for sale or lease in connection with the games authorized under this chapter.

940 2. Keep books and records for the furnishing of equipment, devices and supplies to gaming  
941 operations separate and distinct from any other business that the supplier might operate.

942 3. File a quarterly return with the Board listing all sales and leases for which a permit is required  
943 hereunder.

944 4. Permanently affix its name to all its equipment, devices, and supplies used for gaming operations.

945 Any supplier's equipment, devices or supplies which are used by any person in an unauthorized  
946 gaming operation shall be forfeited to the Commonwealth. A licensed operator may operate its own  
947 equipment, devices and supplies and may utilize gaming equipment, devices, and supplies at such  
948 locations as may be approved by the Board to train enrollees in a school operated by the licensee to  
949 train persons who desire to become qualified for employment or promotion in gaming operations. The  
950 Board may establish rules for the conduct of any such schools.

951 Each holder of an operator's license under this chapter shall file an annual report listing its  
952 inventory of the gaming equipment, devices and supplies used in its Virginia operations.

953 F. Any person who knowingly makes a false statement on an application for a supplier's permit shall  
954 be guilty of a Class 1 misdemeanor.

955 § 59.1-405.18. Denial of permit final.

956 The denial of a supplier's permit by the Board shall be final unless appealed under § 59.1-405.8, and  
957 a permit may not be applied for again for a period of five years from the date of denial without the  
958 permission of the Board.

#### 959 Article 4.

960 Suspension and Revocation of Licenses and Supplier's Permits;

961 Acquisition of Interest in Licensee or Holder of Supplier's Permit.

962 § 59.1-405.19. Suspension or revocation of license or permit.

963 A. Upon fifteen days' notice and an opportunity for hearing, the Board may suspend or revoke any  
964 operator's license or supplier's permit, or assess a civil penalty against the holder thereof in a sum not  
965 to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or  
966 any regulation or condition of the Board, has not been complied with or has been violated.

967 B. The Board may revoke or suspend a license or permit if it finds that facts not known by it at the  
968 time it considered the application indicate that such license or permit should not have been issued.

969 C. If any license or permit is suspended or revoked, the Board shall state its reasons for doing so,  
970 which shall be entered of record. Such action shall be final unless appealed in accordance with  
971 § 59.1-405.8.

972 D. Deliberations of the Board hereunder shall be conducted pursuant to the provisions of the  
973 Virginia Freedom of Information Act (§ 2.1-340 et seq.).

974 E. Suspension or revocation of a license or permit by the Board for any violation shall not preclude  
975 criminal liability for such violation.

976 § 59.1-405.20. Acquisition of interest in licensee or permit holder.

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



Article 5.  
Service Permits.

§ 59.1-405.21. Permit required.

No person shall participate in any riverboat gaming operation as a riverboat employee, concessionaire or employee thereof, or other occupation the Board 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 Board, and complies with the provisions of this chapter and all Board regulations. No permit issued under the provisions of this chapter shall be transferable.

§ 59.1-405.22. Application for permit.

A. Any person desiring to obtain a permit as required by this chapter shall make application therefor on a form or in a format prescribed by the Board.

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

§ 59.1-405.23. Consideration of application.

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

B. The Board shall deny the application and refuse to issue the permit, which denial shall be final unless an appeal is taken under § 59.1-405.8, if it finds that the issuance of such permit to the applicant would not be in the best interests of the Commonwealth, or would reflect adversely on the honesty and integrity of riverboat gaming in the Commonwealth, or that the applicant:

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

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

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

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

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

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

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

§ 59.1-405.24. Suspension or revocation of service permit; civil penalty.

A. Upon reasonable notice and an opportunity for hearing, the Board may suspend or revoke a service permit issued under this chapter, or assess a civil penalty against the holder of such permit in a sum not to exceed \$10,000, in any case where it determines that any provision of this chapter, or any regulation, order, or condition of the Board, has not been complied with, or has been violated.

B. The Board may revoke or suspend such permit, upon notice and opportunity for hearing, if it finds that facts not known by it at the time it was considering the application indicate that such permit should not have been issued.

C. If any permit is suspended or revoked, the Board shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is taken in accordance with § 59.1-405.8.

D. Deliberations of the Board under this section shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.).

E. Suspension or revocation of a permit by the Board for any violation shall not preclude criminal liability for such violation.

Article 6.  
Conduct of Gaming.

§ 59.1-405.25. Conduct of gaming.

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

1. Gaming operations may be conducted only upon licensed riverboats under way in designated navigable waters specified in the respective operators' licenses for such riverboats. No gaming operations may be conducted on docks or other appurtenant facilities of a riverboat other than a

1044 training school. No gaming may be conducted aboard a riverboat when it is docked.

1045 2. Gaming excursions shall not exceed three hours with the exception of extended cruises expressly  
1046 approved by the Board.

1047 3. Minimum and maximum wagers on games shall be set by the licensee.

1048 4. Agents of the Board, the Department, and the Department of State Police may board and inspect  
1049 any riverboat at any time for the purpose of determining compliance with this chapter. Every riverboat,  
1050 if under way and being hailed by a law-enforcement officer or agent of the Board or Department, shall  
1051 stop immediately and lay to.

1052 5. The Board by regulation shall require that at least one State Police officer be on board a  
1053 riverboat at all times during the conduct of gaming operations. In addition, employees and agents of the  
1054 Board and Department shall have the right to be present on the riverboat or on adjacent facilities under  
1055 the control of the licensee.

1056 6. Gaming equipment and supplies customarily used in conducting riverboat gaming shall be  
1057 purchased or leased only from suppliers holding permits for such purpose under this chapter.

1058 7. Persons licensed under this chapter shall permit no form of wagering on games except as  
1059 permitted by this chapter.

1060 8. Wagers may be received only from a person present on a licensed riverboat. No person present on  
1061 a licensed riverboat shall place or attempt to place a wager on behalf of another person who is not  
1062 present on the riverboat.

1063 9. No person under age twenty-one shall be permitted on a riverboat at any time when gaming is  
1064 being conducted. No person under age twenty-one shall be permitted to make a wager under this  
1065 chapter.

1066 10. Riverboat gaming wagers shall be conducted only with money or with tokens, chips or electronic  
1067 cards purchased from a licensed operator aboard a riverboat or in a facility appurtenant to such  
1068 riverboat which is accessible only to persons who have qualified for admission to a gaming excursion  
1069 and are awaiting embarkation. Such tokens, chips or electronic cards may be used while aboard the  
1070 riverboat only for the purpose of making wagers on games.

1071 11. Riverboats shall have a capacity of not less than 400 passengers.

1072 12. A riverboat shall have no more than 1,200 gaming stations.

1073 13. No licensee or permit holder shall accept postdated checks in payment for participation in any  
1074 gaming operation.

1075 14. Gaming shall be conducted in accordance with all Board regulations.

1076 B. It shall be unlawful for any person to erect, maintain, or operate any pier or other structure;  
1077 operate any ferry, shuttle, or other device; or enter onto any of the foregoing, for purposes of  
1078 transporting persons from the Commonwealth to any facility or premises where gaming is conducted  
1079 other than a riverboat licensed under this chapter.

1080 Article 7.

1081 Future Revenues.

1082 § 59.1-405.26. Statement of policy.

1083 It shall be the policy of the Commonwealth to dedicate such net revenues arising from the conduct of  
1084 riverboat gaming pursuant to the provisions of this chapter as may from time to time be provided for by  
1085 general law exclusively to the support of public education, transportation and economic development.  
1086 Such revenues as may be provided for by general law shall be appropriated pursuant to the general  
1087 appropriations act.

1088 Article 8.

1089 Prohibited Acts; Penalties.

1090 § 59.1-405.27. Illegal operation; penalty.

1091 A. No person shall:

1092 1. Operate a gaming excursion where wagering is used or to be used without a license issued by the  
1093 Board.

1094 2. Operate a gaming excursion where wagering is permitted other than in the manner specified by  
1095 this chapter.

1096 3. Offer, promise, or give anything of value or benefit to a person who is connected with a riverboat  
1097 including, but not limited to, an officer or employee of a licensed operator or permit holder, pursuant to  
1098 an agreement or arrangement or with the intent that the promise or thing of value or benefit will  
1099 influence the actions of the person to whom the offer, promise, or gift was made in order to affect or  
1100 attempt to affect the outcome of a game, or to influence official action of a member of the Board or a  
1101 local governing body.

1102 4. Solicit or knowingly accept or receive a promise of anything of value or benefit while the person  
1103 is connected with a riverboat including, but not limited to, an officer or employee of a licensed operator  
1104 or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or  
1105 thing of value or benefit will influence the actions of the person to affect or attempt to affect the

outcome of a gaming game, or to influence official action of a member of the Board or a local governing body.

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

a. In projecting the outcome of a game;

b. In keeping track of the cards played;

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

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

6. Cheat at gaming.

7. Manufacture, sell or distribute any cards, chips, dice, games or devices which are intended to be 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 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 1 misdemeanor. 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 Board.

C. The Department of State Police shall investigate allegations of prohibited acts arising under this chapter.

§ 59.1-405.28. 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 Board, or forged or simulated credential, license or permit of the Board, and who uses such credential, license or permit for the purposes of misrepresentation, fraud or touting shall be guilty of a Class 1 misdemeanor. Any credential, license or permit issued by the Board, 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.

§ 59.1-405.29. 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.

§ 59.1-405.30. 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 an act prohibited by this chapter shall be guilty of a Class 1 misdemeanor.

B. Any person who attempts to commit any act prohibited by this article shall be guilty of a Class 1 misdemeanor.

§ 59.1-405.31. 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.

§ 59.1-405.32. 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.

§ 59.1-405.33. Operation on waterways legal.

1167 *If this chapter becomes effective in any city or county in which a riverboat is docked, the riverboat*  
1168 *operator may lawfully cruise the riverboat in all waters within the route described in the operator's*  
1169 *license.*

1170 *§ 59.1-405.34. Local referendum required.*

1171 *A. The Board shall not grant any license to operate a riverboat unless a referendum approving the*  
1172 *question stated below has been held in each county or city in which such riverboats are to be docked in*  
1173 *the following manner:*

1174 *1. A petition, signed by five percent of the registered voters of such county or city as of the January*  
1175 *1 preceding the filing of the petition, or a petition or resolution of the governing body of such county or*  
1176 *city, shall be filed with the circuit court of such county or city in accordance with Article 5 (§ 24.2-681*  
1177 *et seq.) of Chapter 6 of Title 24.2, asking that a referendum be held on the question, "Shall riverboat*  
1178 *gaming be permitted in [name of county or city] in accordance with Chapter 29.2 (§ 59.1-405.2 et seq.)*  
1179 *of Title 59.1 of the Code of Virginia?"*

1180 *2. Following the filing of such petition, the court shall, by order of record, call a referendum in*  
1181 *accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2.*

1182 *B. No such referendum as described above shall be held more often than once in every three years*  
1183 *in the same county or city.*

1184 *C. A subsequent local referendum shall be required if a license for riverboat gaming in such city or*  
1185 *county has not been granted by the Board within five years of the court order proclaiming the results of*  
1186 *the election.*

1187 *D. Notwithstanding any other provision of this chapter, riverboat gaming shall become effective only*  
1188 *in those cities and counties which adopt the provisions of this chapter by referendum, and all local acts,*  
1189 *including charter provisions and ordinances of cities and towns, inconsistent with the provisions of this*  
1190 *chapter shall be thereby repealed to the extent of such inconsistency. The governing body of each city*  
1191 *or county in which this chapter has become effective may adopt ordinances, including zoning, land use,*  
1192 *and design review ordinances, regulating riverboat gaming activities in a manner which is fair to and*  
1193 *nondiscriminatory among applicants and is in furtherance of the purpose of this chapter.*

1194 **2. That the provisions of § 59.1-405.34 relating to the conduct of local referenda set forth in the**  
1195 **first enactment of this act shall become effective July 1, 1996, so that a local referendum may be**  
1196 **conducted at the general election in November 1996.**

1197 **3. That except as provided by the second enactment of this act, the enactment of the first**  
1198 **enactment of this act shall become effective only if approved by a majority of those voting in the**  
1199 **three statewide referenda to be conducted at the general election in November 1996, as follows:**

1200 **a. It shall be the duty of the officers conducting the election directed by law to be held on the**  
1201 **Tuesday after the first Monday in November 1996, at the places appointed for holding the same,**  
1202 **to open a poll and take the sense of the qualified voters upon their approval of the first enactment**  
1203 **of this act as provided herein.**

1204 **b. At such election a ballot shall be furnished each voter which shall have printed thereon the**  
1205 **following three questions: Question: "Shall the Economic Development and Riverboat Gaming Act**  
1206 **of 1996, which authorizes riverboat gaming in certain cities and counties in eastern Virginia and**  
1207 **provides for its regulation become effective in the Commonwealth?" Question: "Shall the**  
1208 **provisions of Chapter \_\_\_\_ of the 1996 Acts of Assembly, which permits the State Lottery Board**  
1209 **to issue regulations providing for the participation of Virginia citizens in multistate lottery games,**  
1210 **become effective in the Commonwealth?" Question: "Shall the provisions of Chapter \_\_\_\_ of the**  
1211 **1996 Acts of Assembly, which permits the State Lottery Board to issue regulations providing for**  
1212 **the conduct of "keno" in Virginia, become effective in the Commonwealth?" The ballot shall be**  
1213 **prepared, distributed and voted and the results thereof ascertained and certified in the manner**  
1214 **prescribed by general law and § 24.2-684. It shall be the duty of the electoral board of each county**  
1215 **and city to make out, certify and forward an abstract of the votes cast for and against each of the**  
1216 **three propositions, in the manner prescribed by law for the votes cast in general elections. It shall**  
1217 **be the duty of the State Board of Elections to open and canvass the abstracts of returns, and to**  
1218 **examine and make statement of the whole number of votes given at such election for and against**  
1219 **each of the three propositions, in the manner now prescribed by law for votes cast in general**  
1220 **elections; it shall be the duty of the State Board of Elections to record such certified statement in**  
1221 **its office and without delay to make out and transmit to the Governor an official copy of such**  
1222 **statement, certified by it. The Governor shall, without delay, make proclamation of the result,**  
1223 **stating therein the aggregate vote for and against each of the three propositions.**

1224 **If a majority of votes cast are for each and every proposition, the first enactment of this act shall**  
1225 **become effective on January 1, 1997. At least thirty days prior to the election, the State Board of**  
1226 **Elections shall cause to be sent to electoral boards of each county and city sufficient copies of the**  
1227 **Economic Development and Riverboat Gaming Act of 1996 (Chapter \_\_\_\_ of the 1996 Acts of**  
1228 **Assembly) to be posted in each polling place on election day. The expenses incurred in conducting**

**1229** this election shall be defrayed as in the case of the election of members of the General Assembly.

**INTRODUCED**

**HB1132**