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SENATE BILL NO. 199

Offered January 9, 2008

Prefiled January 7, 2008

A BILL to amend and reenact §§ 2.2-203, 2.2-3705.3, 2.2-3705.6, 18.2-340.15, 18.2-340.16, 18.2-340.25, 19.2-389, 58.1-3, and 58.1-4019.1 of the Code of Virginia, and to repeal Chapter 9.1 (§§ 2.2-905 through 2.2-906) of Title 2.2 and Article 19 (§§ 2.2-2455 through 2.2-2456) of Chapter 24 of Title 2.2 of the Code of Virginia, relating to the Department of Agriculture and Consumer Services; regulation of charitable gaming.

Patron—Puller

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-203, 2.2-3705.3, 2.2-3705.6, 18.2-340.15, 18.2-340.16, 18.2-340.25, 19.2-389, 58.1-3, and 58.1-4019.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-203. Position established; agencies for which responsible.

The position of Secretary of Administration (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies and boards: Department of Human Resource Management, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employment Dispute Resolution, ~~Department of Charitable Gaming~~, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

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

1. Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.*

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

3. 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 Human Resource Management or to such personnel of any local public body, including local school boards as are responsible for conducting such investigations in confidence. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

4. 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.

5. 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 (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

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

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise

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59 exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of
60 Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the State
61 Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and
62 Abuse Hotline; (iv) committee or the auditor with respect to an investigation or audit conducted
63 pursuant to § 15.2-825; or (v) auditors, appointed by the local governing body of any county, city or
64 town or a school board, who by charter, ordinance, or statute have responsibility for conducting an
65 investigation of any officer, department or program of such body. Records of completed investigations
66 shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying
67 information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall
68 include, but not be limited to, the agency involved, the identity of the person who is the subject of the
69 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation
70 does not lead to corrective action, the identity of the person who is the subject of the complaint may be
71 released only with the consent of the subject person. Local governing bodies shall adopt guidelines to
72 govern the disclosure required by this subdivision.

73 8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence
74 received or maintained by the Office or its agents in connection with specific complaints or
75 investigations, and records of communications between employees and agents of the Office and its
76 clients or prospective clients concerning specific complaints, investigations or cases. Upon the
77 conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may
78 not at any time release the identity of any complainant or person with mental illness, mental retardation,
79 developmental disabilities or other disability, unless (i) such complainant or person or his legal
80 representative consents in writing to such identification or (ii) such identification is required by court
81 order.

82 9. Information furnished in confidence to the Department of Employment Dispute Resolution with
83 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
84 and memoranda, correspondence and other records resulting from any such investigation, consultation or
85 mediation. However, nothing in this section shall prohibit the distribution of information taken from
86 inactive reports in a form that does not reveal the identity of the parties involved or other persons
87 supplying information.

88 10. The names, addresses and telephone numbers of complainants furnished in confidence with
89 respect to an investigation of individual zoning enforcement complaints made to a local governing body.

90 11. Records of active investigations being conducted by the Department of Criminal Justice Services
91 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.)
92 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

93 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
94 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
95 unauthorized alteration, or improper administration of tests by local school board employees responsible
96 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
97 of records to (i) a local school board or division superintendent for the purpose of permitting such board
98 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
99 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
100 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
101 does not compromise the security of any test mandated by the Board.

102 § 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

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

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

107 2. Financial statements not publicly available filed with applications for industrial development
108 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

109 3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of
110 confidentiality from the Department of Business Assistance, the Virginia Economic Development
111 Partnership, the Virginia Tourism Authority, the Tobacco Indemnification and Community Revitalization
112 Commission, a nonprofit, nonstock corporation created pursuant to § 2.2-2240.1, or local or regional
113 industrial or economic development authorities or organizations, used by the Department, the
114 Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda,
115 working papers or other records related to businesses that are considering locating or expanding in
116 Virginia, prepared by such entities, where competition or bargaining is involved and where, if such
117 records are made public, the financial interest of the governmental unit would be adversely affected.

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

120 5. Fisheries data that would permit identification of any person or vessel, except when required by

court order as specified in § 28.2-204.

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

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

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

9. 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 Transportation Equity Act for the 21st Century (P.L. 105-178) 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 Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection D of § 2.2-4342 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 § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii) and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b)

information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and Infrastructure Act of 2002.

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

13. Confidential proprietary records that are provided by a franchisee under Article 1.2 (§ 15.2-2108.19 et seq.) of Chapter 21 of Title 15.2 to its franchising authority pursuant to a promise of confidentiality from the franchising authority that relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services* pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to §§ 3.1-622 and 3.1-624.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the records or portions thereof for which protection is sought, and (iii) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Minority Business Enterprise as part of an application for (i) certification as a small, women- or minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for

Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

§ 18.2-340.15. State control of charitable gaming.

A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations but shall be conducted only in strict compliance with the provisions of this article. The Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services* is vested with control of all charitable gaming in the Commonwealth. The ~~Charitable Gaming Board~~ *Board of Agriculture and Consumer Services* shall have the power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

B. The conduct of any charitable gaming is a privilege that may be granted or denied by the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services* or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.

§ 18.2-340.16. Definitions.

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to seventy-five, (ii) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Board" means the ~~Charitable Gaming Board~~ *created pursuant to § 2.2-2455 Board for Agriculture and Consumer Services*.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands or tape.

"Commissioner" means the *Commissioner of the Department of Agriculture and Consumer Services*.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to, (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Department" means the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services* ~~created in accordance with Chapter 9-1 (§ 2.2-905 et seq.) of Title 2.2.~~

"Director" means the ~~Director of the Department of Charitable Gaming~~.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards, including Department-approved electronic versions thereof, with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game, exclusive of a "winner-take-all" bingo game, in which the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation,

305 employee, or immediate family member thereof, which owns and leases, or leases any premise devoted
306 in whole or in part to the conduct of bingo games, and any person residing in the same household as a
307 landlord.

308 "Management" means the provision of oversight of a gaming operation, which may include, but is
309 not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling,
310 submitting and maintaining required records and financial reports, and ensuring that all aspects of the
311 operation are in compliance with all applicable statutes and regulations.

312 "Operation" means the activities associated with production of a charitable gaming activity, which
313 may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming;
314 (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the
315 organization's management.

316 "Organization" means any one of the following:

317 1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in
318 accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the
319 volunteer fire department or rescue squad is located as being a part of the safety program of such
320 political subdivision;

321 2. An organization operated exclusively for religious, charitable, community or educational purposes;

322 3. An athletic association or booster club or a band booster club established solely to raise funds for
323 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
324 § 22.1-19 or to provide scholarships to students attending such school;

325 4. An association of war veterans or auxiliary units thereof organized in the United States;

326 5. A fraternal association or corporation operating under the lodge system;

327 6. A local chamber of commerce; or

328 7. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross
329 receipts of \$25,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are
330 used exclusively for charitable, educational, religious or community purposes.

331 "Qualified organization" means any organization to which a valid permit has been issued by the
332 Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23.

333 "Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or
334 prearranged number of one or more persons purchasing chances or (ii) a random contest in which the
335 winning name or preassigned number of one or more persons purchasing chances is determined by a
336 race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

337 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified
338 organization in the conduct of charitable gaming and not otherwise allowed under this article or under
339 Board regulations on real estate and personal property tax payments, travel expenses, payments of
340 utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and
341 office equipment and costs of acquisition, maintenance, repair or construction of an organization's real
342 property. For the purpose of this definition, salaries and wages of employees whose primary
343 responsibility is to provide services for the principal benefit of an organization's members shall not
344 qualify as a business expense. However, payments made pursuant to § 51.1-1204 to the Volunteer
345 Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper
346 business expense.

347 "Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming
348 supplies to any qualified organization.

349 § 18.2-340.25. Permit required; application fee; form of application.

350 A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an
351 organization shall obtain a permit from the Department.

352 B. All complete applications for a permit shall be acted upon by the Department within 45 days from
353 the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the
354 discretion of the Department, a permit may be issued. All permits when issued shall be valid for the
355 period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for
356 longer than two years. The application shall be a matter of public record.

357 All permits shall be subject to regulation by the Department to ensure the public safety and welfare
358 in the operation of charitable games. The permit shall only be granted after a reasonable investigation
359 has been conducted by the Department. The Department may require any prospective employee, permit
360 holder or applicant to submit to fingerprinting and to provide personal descriptive information to be
361 forwarded along with employee's, licensee's or applicant's fingerprints through the Central Criminal
362 Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history
363 record information regarding such prospective employee, permit holder or applicant. The Central
364 Criminal Records Exchange upon receipt of a prospective employee, licensee or applicant record or
365 notification that no record exists, shall forward the report to the ~~director~~ Commissioner of the
366 Department or his designee, who shall belong to a governmental entity. However, nothing in this

subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant to § 18.2-340.27.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Board Regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

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

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

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

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

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

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

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

7. Agencies of any political subdivision of the Commonwealth for the conduct of investigations of applicants for public employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

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

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

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a

428 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
429 America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency
430 Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of
431 Compeer; or (vi) any board member or any individual who has been offered membership on the board
432 of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

433 12. Administrators and board presidents of and applicants for licensure or registration as a child
434 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
435 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
436 volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes
437 approved by family day-care systems, and foster and adoptive parent applicants of private child-placing
438 agencies, pursuant to §§ 63.2-1719 through 63.2-1721, subject to the restriction that the data shall not be
439 further disseminated by the facility or agency to any party other than the data subject, the Commissioner
440 of Social Services' representative or a federal or state authority or court as may be required to comply
441 with an express requirement of law for such further dissemination;

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

445 14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery
446 Law (§ 58.1-4000 et seq.), and the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services*
447 for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of
448 Title 18.2;

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

453 16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers
454 for the conduct of investigations of applicants for compensated employment in licensed homes for adults
455 pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed
456 adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

457 17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in
458 § 4.1-103.1;

459 18. The State Board of Elections and authorized officers and employees thereof in the course of
460 conducting necessary investigations with respect to registered voters, limited to any record of felony
461 convictions;

462 19. The Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse
463 Services for those individuals who are committed to the custody of the Commissioner pursuant to
464 §§ 19.2-169.2, 19.2-169.6, 19.2-176, 19.2-177.1, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for
465 the purpose of placement, evaluation, and treatment planning;

466 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
467 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
468 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

469 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
470 Department of Education, or the Department of Mental Health, Mental Retardation and Substance Abuse
471 Services for the purpose of determining applicants' fitness for employment or for providing volunteer or
472 contractual services;

473 22. The Department of Mental Health, Mental Retardation and Substance Abuse Services and
474 facilities operated by the Department for the purpose of determining an individual's fitness for
475 employment pursuant to departmental instructions;

476 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious
477 elementary or secondary schools which are accredited by a statewide accrediting organization
478 recognized, prior to January 1, 1996, by the State Board of Education or a private organization
479 coordinating such records information on behalf of such governing boards or administrators pursuant to
480 a written agreement with the Department of State Police;

481 24. Public and nonprofit private colleges and universities for the purpose of screening individuals
482 who are offered or accept employment;

483 25. Executive directors of community services boards or the personnel director serving the
484 community services board for the purpose of determining an individual's fitness for employment
485 pursuant to §§ 37.2-506 and 37.2-607;

486 26. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
487 determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

488 27. The Commissioner of the Department of Social Services for the purpose of locating persons who
489 owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided

that only the name, address, demographics and social security number of the data subject shall be released;

28. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the purpose of determining if any applicant who accepts employment in any direct consumer care position has been convicted of a crime that affects their fitness to have responsibility for the safety and well-being of persons with mental illness, mental retardation and substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

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

30. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

31. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;

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

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

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

35. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

36. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services; and

37. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases

where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision 16 of subsection A shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision 35 of subsection A shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request; provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to § 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 6 (§ 3.1-336.3 et seq.) of Chapter 18 of Title 3.1. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his

official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the ~~Director~~ *Commissioner* of the Department of ~~Charitable Gaming~~ *Agriculture and Consumer Services* such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; and (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation,

only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

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

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

2. That Chapter 9.1 (§§ 2.2-905 through 2.2-906) of Title 2.2 and Article 19 (§§ 2.2-2455 through 2.2-2456) of Chapter 24 of Title 2.2 of the Code of Virginia are repealed.

3. That as of July 1, 2008, the Department of Agriculture and Consumer Services shall be deemed successor in interest to the Department of Charitable Gaming to the extent that this act transfers powers and duties. All right, title, and interest in and to any real or tangible personal property vested in the Department of Charitable Gaming shall be transferred to and taken as standing in the name of the Department of Agriculture and Consumer Services.

4. That as of July 1, 2008, the Board of Agriculture and Consumer Services shall be deemed successor in interest to the Charitable Gaming Board to the extent that this act transfers powers and duties. All right, title, and interest in and to any real or tangible personal property vested in the Charitable Gaming Board shall be transferred to and taken as standing in the name of the Board of Agriculture and Consumer Services.

5. That the Governor may transfer an appropriation or any portion thereof within a state agency established, abolished, or otherwise affected by the provisions of this act, or from one such agency

736 to another, to support the changes in organization or responsibility resulting from or required by
737 the provisions of this act.
738 6. That all rules and regulations adopted by the Department of Charitable Gaming or the
739 Charitable Gaming Board that are in effect as of July 1, 2008, and that pertain to the subject of
740 this act, shall remain in full force and effect until altered, amended, or rescinded by the
741 Department of Agriculture and Consumer Services.

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