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HOUSE BILL NO. 4

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws)

(Patrons Prior to Substitute—Delegates Knight, Bourne [HB 1343], Carr [HB 1661], Kilgore [HB 374], Lindsey [HB 560], and Scott [HB 428])

House Amendments in [ ] - February 10, 2020

A BILL to amend and reenact §§ 2.2-401.01, 2.2-3711, 15.2-2825, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4002, 58.1-4004, 58.1-4006, and 59.1-364 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 10, consisting of sections numbered 58.1-4100 through 58.1-4130, relating to regulation of casino gaming by Virginia Lottery Board; Regional Improvement Commission; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-401.01, 2.2-3711, 15.2-2825, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4002, 58.1-4004, 58.1-4006, and 59.1-364 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 a section numbered 18.2-334.5, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a chapter numbered 41, containing articles numbered 1 through 10, consisting of sections numbered 58.1-4100 through 58.1-4130, as follows:

§ 2.2-401.01. Liaison to Virginia Indian tribes; Virginia Indigenous People's Trust Fund.

A. The Secretary of the Commonwealth shall:

1. Serve as the Governor's liaison to the Virginia Indian tribes; and

2. Report annually on the status of Indian tribes in Virginia.

B. The Secretary of the Commonwealth may establish a Virginia Indian advisory board to assist the Secretary in reviewing applications seeking recognition as a Virginia Indian tribe and to make recommendations to the Secretary, the Governor, and the General Assembly on such applications and other matters relating to recognition as follows:

1. The members of any such board shall be composed of no more than seven members to be appointed by the Secretary as follows: at least three of the members shall be members of Virginia recognized tribes to represent the Virginia Indian community, and one nonlegislative citizen member shall represent the Commonwealth's scholarly community. The Librarian of Virginia, the Director of the Department of Historic Resources, and the Superintendent of Public Instruction, or their designees, shall serve ex officio with voting privileges. Nonlegislative citizen members of any such board shall be citizens of the Commonwealth. Ex officio members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. The Secretary of the Commonwealth shall appoint a chairperson from among the members for a two-year term. Members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

2. Any such board shall have the following powers and duties:

a. Establish guidance for documentation required to meet the criteria for full recognition of the Virginia Indian tribes that is consistent with the principles and requirements of federal tribal recognition;

b. Establish a process for accepting and reviewing all applications for full tribal recognition;

c. Appoint and establish a workgroup on tribal recognition composed of nonlegislative citizens at large who have knowledge of Virginia Indian history and current status. Such workgroup (i) may be activated in any year in which an application for full tribal recognition has been submitted and in other years as deemed appropriate by any such board and (ii) shall include at a minimum a genealogist and at least two scholars with recognized familiarity with Virginia Indian tribes. No member of the workgroup shall be associated in any way with the applicant. Members of the workgroup shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825;

d. Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the board;

e. Make recommendations to the Secretary for full tribal recognition based on the findings of the workgroup and the board; and

f. Perform such other duties, functions, and activities as may be necessary to facilitate and implement

the objectives of this subsection.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Indigenous People's Trust Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, any tax revenue accruing to the fund pursuant to § 58.1-4125, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. After payment of the costs of administration of the Fund, moneys in the Fund shall be used to make disbursements on a quarterly basis in equal amounts to each of the six Virginia Indian tribes federally recognized under P.L. 115-121 of 2018. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of the Commonwealth.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

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

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity

(a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value

of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

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

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the

exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

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

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

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

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

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

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

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

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

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

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

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

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

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title

23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 11-16.1. Exemption from the chapter.

This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for violation.

A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be permitted in:

1. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include the preparation or storage of food for catering services, pushcart operations, hotdog stands, and other mobile points of service;

2. Any outdoor area of a restaurant, with or without roof covering, at such times when such outdoor area is not enclosed in whole or in part by any screened walls, roll-up doors, windows or other seasonal or temporary enclosures;

3. Any restaurants located on the premises of any manufacturer of tobacco products;

4. Any portion of a restaurant that is used exclusively for private functions, provided such functions are limited to those portions of the restaurant that meet the requirements of subdivision 5;

5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may be permitted is (i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the

recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited. For the purposes of the preceding sentence, nothing shall be construed to require the creation of an additional public entrance in cases where the only public entrance to a restaurant in existence as of December 1, 2009, is through an outdoor area described in subdivision 2; ~~and~~

6. Any private club*; and*

7. Any portion of a facility licensed to conduct casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 designated pursuant to the provisions of and that meets the requirements of § 15.2-2827. Any restaurant within a facility licensed to conduct casino gaming shall comply with the provisions of this section.

B. For the purposes of this section:

"Proprietor" means the owner, lessee or other person who ultimately controls the activities within the restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Structurally separated" means a stud wall covered with drywall or other building material or other like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-impervious building material.

C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to work in any area of the restaurant where smoking may be permitted without the consent of such individual. Nothing in this subsection shall be interpreted to create a cause of action against such proprietor.

D. The proprietor of any restaurant shall:

1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and

2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where smoking is prohibited in accordance with this section.

E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall be subject to the civil penalty of not more than $25.

F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in this section. Any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

G. It shall be an affirmative defense to a complaint brought against a proprietor for a violation of this section that the proprietor or an employee of such proprietor:

1. Posted a "No Smoking" sign as required;

2. Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited;

3. Refused to seat or serve any individual who was smoking in a prohibited area; and

4. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment.

H. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

I. Any local health department or its designee shall, while inspecting a restaurant as otherwise required by law, inspect for compliance with this section.

§ 18.2-334.5. Exemptions to article; certain gaming operations.

Nothing in this article shall be construed to make it illegal to participate in any casino gaming operation conducted in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.

§ 19.2-389. (Effective until January 1, 2021) 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. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for 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;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment 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 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

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

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) *and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,* and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who 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;

29. 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 Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted

of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of 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;

31. 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;

32. 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;

33. 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.);

34. 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;

35. 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;

36. 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;

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

45. 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 A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective January 1, 2021) 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. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for 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;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment 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 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

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

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) *and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,* and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations

of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who 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;

29. 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 Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of 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;

31. 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;

32. 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;

33. 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.);

34. 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;

35. 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;

36. 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;

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. 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 A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House *Committee on* Appropriations and Senate ~~Finances~~ ~~Committees~~ *Committee on Finance and Appropriations* that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem gambling; ongoing evaluation of problem gambling programs; Problem Gambling Treatment and Support Fund.

A. As used in this section:

"Compulsive gambling" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress, as indicated by an individual exhibiting four or more of the criteria as defined by the Diagnostic Statistical Manual of Mental Disorders in a 12-month period and where the behavior is not better explained by a manic episode.

"Problem gambling" means a gambling behavior that causes disruptions in any major area of life, including the psychological, social, or vocational areas of life, but does not fulfill the criteria for diagnosis as a gambling disorder.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive and problem gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-4002. Definitions.

~~For the purposes of~~ *As used in* this chapter*, unless the context requires a different meaning*:

"Board" means the Virginia Lottery Board established by this chapter.

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, sports betting, roulette wheels, Klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.).

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this chapter.

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

§ 58.1-4004. Membership of Board; appointment; terms; vacancies; removal; expenses.

A. The Board shall consist of five members, all of whom shall be citizens and residents of this Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Prior to the appointment of any Board members, the Governor shall consider the political affiliation and the geographic residence of the Board members. The members shall be appointed for terms of five years. The members shall annually elect one member as chairman of the Board.

B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original term.

C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the performance of their official duties.

D. Before entering upon the discharge of their duties, the members of the Board shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

E. No member of the Board shall:

1. Have any direct or indirect financial, ownership, or management interest in any gaming activities, including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.

2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities, including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.

3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of independent consulting services in connection with any gaming establishment or gaming activity.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer ~~the~~*:*

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder*; and*

2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery *and the regulation of casino gaming*; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery *and the regulation of casino gaming*.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. *Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).*

7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.

8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter

41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

11. Impose a fine or penalty not to exceed $1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.

12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of casino gaming operations or the efficient conduct of the Director's duties.

13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

~~7.~~ *14.* Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

~~8.~~ *15.* Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate *Committee on* Finance ~~Committee~~ *and Appropriations*, House *Committee on* Finance ~~Committee~~, and House *Committee on* Appropriations ~~Committee~~ the total lottery revenues, prize disbursements, and other expenses for the preceding month~~,~~ and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, *as well as a separate financial statement of the expenses incurred in the regulation of casino gaming operations as defined in § 58.1-4100,* to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter *and Chapter 41 (§ 58.1-4100 et seq.)* as the Director and Board deem necessary or desirable.

~~9.~~ *16.* Report immediately to the Governor and the General Assembly any matters ~~which~~ *that* require immediate changes in the laws of ~~this~~ *the* Commonwealth in order to prevent abuses and evasions of this chapter *and Chapter 41 (§ 58.1-4100 et seq.)* or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

~~10.~~ *17.* Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of $600 in the manner required by the lottery rules and regulations.

~~11.~~ *18.* Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of $5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ *that* he determines will be cost effective and support increased sales of lottery products.

CHAPTER 41.

CASINO GAMING.

Article 1.

General Provisions.

§ 58.1-4100. Definitions.

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

"Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to winners.

"Board" means the Virginia Lottery Board established in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, sports betting, roulette wheels, Klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under this chapter.

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

"Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.

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

"College sports" means an athletic event in which at least one participant is a team from a public or private institute of higher education.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in the Virginia Lottery Law (§ 58.1-4000 et seq.).

"Director" means the Director of the Virginia Lottery.

"Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment is authorized to be located.

"Entity" means a person that is not a natural person.

"Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by casino gaming patrons.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

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

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

"Preferred casino gaming operator" means the proposed casino gaming establishment and operator thereof submitted by an eligible host city to the Board as an applicant for licensure.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that 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, and any person who manages a gaming operation on behalf of a licensee.

"Professional sports" means an athletic event involving at least two competing individuals who receive compensation, in excess of their expenses, for participating in such event.

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

"Sports betting" means placing wagers on professional sports and college sports at the casino gaming establishment. "Sports betting" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1.

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

"Voluntary exclusion program" means a program established by the Board that allows individuals to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

"Youth sports" means an athletic event (i) involving a participant under age 18 or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located.

§ 58.1-4101. Regulation and control of casino gaming; limitation.

A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the Commonwealth. The Board is vested with control of all casino gaming in the Commonwealth, with authority 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 casino gaming operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest, or unprincipled practices.

B. The conduct of casino gaming shall be limited to the qualified locations established in § 58.1-4107. The Board shall be limited to the issuance of a single operator's license for each such qualified location.

C. The conduct of any casino gaming and entrance to such establishment is a privilege that may be granted or denied by the Board or its duly authorized representatives in its discretion in order to

effectuate the purposes set forth in this chapter. Any proposed site for a casino gaming establishment shall be privately owned property subject to the local land use and property taxation authority of the eligible host city in which the casino gaming establishment is located.

§ 58.1-4102. Powers and duties of the Board; regulations.

The Board shall have the power and duty to:

1. Issue permits and licenses under this chapter and supervise all gaming operations licensed under the provisions of this chapter, including all persons conducting or participating in any gaming operation. The Board shall employ such persons to be present during gaming operations as are necessary to ensure that such gaming operations are conducted with order and the highest degree of integrity.

2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the Commonwealth and all such other regulations it deems necessary and appropriate to further the purposes of this chapter.

3. Issue an operator's license only to a person who meets the criteria of § 58.1-4107.

4. Issue subpoenas for the attendance of witnesses before the Board, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever in the judgment of the Board it is necessary to do so for the effectual discharge of its duties.

5. Order such audits as it deems necessary and desirable.

6. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or payoff for winning a game and establish the thresholds for such withholdings.

§ 58.1-4103. Voluntary exclusion program.

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program in the Commonwealth.

B. The regulations shall include the following provisions:

1. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion program agrees to be excluded from entering a casino gaming establishment.

2. The name of an individual participating in the program shall be included on a list of individuals excluded from all casino gaming establishments.

3. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion program may not petition the Board for readmittance to any casino gaming establishment.

4. The list of participants in the voluntary exclusion program and the personal information of the participants shall be confidential with dissemination by the Board limited to the owner or operator of a casino gaming establishment for purposes of enforcement and to other entities, upon request by the participant and agreement by the Board.

5. The operator of a casino gaming establishment shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to an individual participating in the program. An individual's participation in the voluntary exclusion program shall not preclude an operator from seeking the payment of a debt accrued by such individual prior to entering the program.

§ 58.1-4104. Fingerprints and background investigations.

The Board shall require a background investigation, including a criminal history records check and fingerprinting, of the following individuals by a representative of a law-enforcement agency of the Commonwealth or federal government: (i) every individual applying for a license or permit pursuant to this chapter; (ii) every individual who is an officer, director, or principal of a licensee or applicant for a license and every employee of the licensee who conducts gaming operations; (iii) all security personnel of any licensee; (iv) all permit holders and officers, directors, principals, and employees of permit holders whose duties relate to gaming operations in Virginia; and (v) any other individual determined by the Department as an active participant in the casino gaming activities of any licensee or permit holder or applicant for a license or permit. Each such individual shall submit his fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for a national criminal records search and to the Department of State Police for a Virginia criminal history records search.

§ 58.1-4105. Hearing and appeal.

Any person aggrieved by a refusal of the Department to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a fine, or any other action of the Department may seek review of such action in accordance with Department regulations and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.) in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 58.1-4106. Injunction.

The Department may apply to the appropriate circuit court for an injunction against any person who has violated or may violate any provision of this chapter or any regulation or final decision of the Department. The order granting or refusing such injunction shall be subject to appeal as in other cases

in equity.

Article 2.

Eligible Host City; Certification of Preferred Casino Gaming Operator.

§ 58.1-4107. Eligible host city; certification of preferred casino gaming operator.

A. The conduct of casino gaming shall be limited to the following eligible host cities:

1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018, and (ii) that experienced a population decrease of at least seven percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

2. Any city that had (i) an annual unemployment rate of at least five percent in 2018, according to data provided by the U.S. Bureau of Labor Statistics; (ii) an annual poverty rate of at least 20 percent in 2017, according to data provided by the U.S. Census Bureau; and (iii) a population decrease of at least 20 percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

3. Any city that (i) had an annual unemployment rate of at least 3.6 percent in 2018, according to data provided by the U.S. Bureau of Labor Statistics; (ii) had an annual poverty rate of at least 20 percent in 2017, according to data provided by the U.S. Census Bureau; (iii) experienced a population decrease of at least four percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and (iv) is located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act;

4. Any city (i) with a population greater than 200,000 according to the 2018 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least 24 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that experienced a population decrease of at least five percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and

5. Any city (i) with a population greater than 200,000 according to the 2018 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia; (ii) in which at least 24 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2018; and (iii) that had a poverty rate of at least 24 percent in 2017, according to data provided by the U.S. Census Bureau.

B. An eligible host city shall certify a preferred casino gaming operator and, upon request from the Department pursuant to § 58.1-4109, submit to the Department the name of such preferred casino gaming operator.

C. In selecting a preferred casino gaming operator, an eligible host city shall have considered [*and given substantial weight to*] *factors such as:*

1. The potential benefit and prospective revenues of the proposed casino gaming establishment.

2. The total value of the proposed casino gaming establishment.

3. The proposed capital investment and the financial health of the proposer and any proposed development partners.

4. The experience of the proposer and any development partners in the operation of a casino gaming establishment.

5. Security plans for the proposed casino gaming establishment.

6. The economic development value of the proposed casino gaming establishment and the potential for community reinvestment and redevelopment in an area in need of such.

7. Availability of city-owned assets and privately owned assets, such as real property, including where there is only one location practicably available or land under a development agreement between a potential operator and the city, incorporated in the proposal.

8. The best financial interest of the city.

9. The [~~*percent of ownership in the proposer by a*~~ *proposer's status as a minority-owned business as defined in § 2.2-1604 or the proposer's commitment to solicit equity investment in the proposed casino gaming establishment from one or more*] *minority-owned* [~~*business as defined in § 2.2-1604*~~ *businesses, and the proposer's commitment to solicit contracts with minority-owned businesses for the purchase of goods and services*] .

D. An eligible host city described in subdivision A 4 shall provide substantial and preferred consideration to a proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act.

E. An eligible host city described in subdivision A 5 shall provide substantial and preferred consideration to a proposer who is [~~*(i) a significant infrastructure limited licensee as defined in*~~

~~§ 59.1-365 or (b)~~] a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.).

F. An eligible host city shall submit its preferred operator and owner based on the criteria in this section to the Department for a pre-certification of their qualifications to conduct casino gaming in the Commonwealth. An eligible host city shall also submit any written or electronic documentation considered as part of the criteria in subsection C, including any memorandum of understanding, incentives, development agreements, land purchase agreements, or local infrastructure agreements. Such pre-certification shall include a review of their financial status and ability to operate and properly support ongoing operations in an eligible host city, as well as current casino operations in other states and territories. The Department shall also consider as part of its review the best financial interests of the Commonwealth. The Department shall conduct such review and make a determination on pre-certification within 60 days of receipt of the request by the eligible host city. An eligible host city and preferred operator and owner shall fully cooperate with all necessary requests by the Department in that regard.

Article 3.

Licenses.

§ 58.1-4108. Operator's license required; capital investment; transferability.

A. No person shall operate a casino gaming establishment unless he has obtained an operator's license issued by the Department in accordance with the provisions of this chapter and the regulations promulgated hereunder.

B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall make a capital investment of at least $250 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements.

C. A license issued under the provisions of this chapter shall be transferable, provided that the Department has approved the proposed transfer and all licensure requirements are satisfied at the time the transfer takes effect.

D. A nonrefundable fee of $5 million shall be paid by the applicant to the Department upon issuance of a license to operate a casino gaming establishment.

E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently created online sports betting license.

§ 58.1-4109. Application for operator's license; certification of preferred casino gaming operator by eligible host city; penalty.

A. Prior to accepting any application for a license to operate a casino gaming establishment, the Board shall request from each eligible host city the certified preferred casino gaming operator. Each eligible host city shall submit such certification within 60 days of the Board's request. The Department shall assist a city described in subdivision A 5 of § 58.1-4107, in evaluating the technical merits of any proposal submitted pursuant to this section, provided that selection of the preferred casino operator shall be at the city's sole discretion.

B. Any preferred casino gaming operator desiring to operate a casino gaming establishment shall file with the Department an application for an operator's license. Such application shall be filed at the place prescribed by the Department and shall be in such form and contain such information as prescribed by the Department, 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, the name and address of each manager thereof; or if another entity, the name and address of 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 of the applicant, including providing management services with respect to 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 Department considers appropriate regarding the character, background, and responsibility of the applicant and the principals, officers, and directors of the applicant;

4. A description of the casino gaming establishment in which such gaming operations are to be conducted, the city where such casino gaming establishment will be located, and the applicant's capital investment plan for the site. The Board shall require such information about a casino gaming

establishment and its location as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter and whether 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 Department considers appropriate;

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

7. Evidence of compliance by the applicant with the economic development and land use plans and design review criteria of the local governing body of the city in which the casino gaming establishment is proposed to be located, including certification that the project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

8. Such information necessary to enable the Department to review the application based upon the best financial interests of the Commonwealth; and

9. Any other information that the Department in its discretion considers appropriate.

C. A nonrefundable application fee of $50,000 shall be paid at the time of filing to defray the costs associated with the background investigation conducted for the Department. If the reasonable costs of the investigation exceed the application fee and the reason for the costs exceeding the application fee is the fault of the applicant, such applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this chapter and allocating such costs to the applicants for licensure at the time of filing.

D. Any license application from an Indian tribe as described in subsection D of § 58.1-4107 shall certify that the material terms of the relevant development agreements between the Indian tribe and any development partner have been determined in the opinion of the Office of General Counsel of the National Indian Gaming Commission after review not to deprive the Indian tribe of the sole propriety interest in the gaming operations for purposes of federal Indian gaming law.

E. Any application filed hereunder shall be verified by the oath or affirmation of the applicant. Any person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

F. The licensed operator shall be the person primarily responsible for the gaming operations under his license and compliance of such operations with the provisions of this chapter.

§ 58.1-4110. Issuance of operator's license to preferred casino gaming operator; standards for licensure; temporary licenses.

A. If a preferred casino gaming operator, as certified by the applicable eligible host city, submits an application that meets the standards for licensure set forth in this article, the Department shall issue an operator's license to such preferred casino gaming operator. The Department shall not consider an application from any applicant that has not been certified as a preferred casino gaming operator by an eligible host city.

B. The Department may issue an operator's license to a person only if it finds that:

1. The applicant submits a plan for addressing responsible gaming issues, including the goals of the plan, procedures, and deadlines for implementation of the plan;

2. The casino gaming establishment the applicant proposes to use on a permanent basis is or will be appropriate for gaming operations consistent with the purposes of this chapter;

3. The city where the casino gaming establishment will be located certifies that the proposed project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

4. Any required local infrastructure or site improvements, including necessary sewerage, water, drainage facilities, or traffic flow, are to be paid exclusively by the applicant without state or local financial assistance;

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

6. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the Virginia courts, and all nonresident principals have designated the Director as their agent for receipt of process;

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

8. The applicant meets any other criteria established by this chapter and the Department's regulations for the granting of an operator's license;

9. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts of the Commonwealth; and

10. The applicant has not previously been denied a license pursuant to subsection C.

C. The Department shall deny a license to an applicant if it finds that for any reason the issuance of

a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of the applicant:

1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations in this or any other state or has been convicted of a felony;

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

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

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

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

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

D. The Department shall make a determination regarding whether to issue the operator's license within 90 days of the receipt of a completed application.

E. The Department shall be limited to the issuance of one operator's license for each eligible host city.

F. The Department may issue a one-year temporary gaming license if it finds that a preferred casino operator has submitted as a part of its application a construction schedule for a casino gaming establishment that has been approved by the eligible host city and the Department. The Department may renew a temporary gaming license for an additional year if it determines that the preferred casino operator has made a good faith effort to comply with the approved construction schedule.

§ 58.1-4111. Duration and form of operator's license; bond.

A. A license issued under this chapter shall be for the period set by the Department regulations, which shall be no more than 10 years, but shall be reviewed no less frequently than annually to determine compliance with this chapter and Department regulations. Such annual review shall include a certification by the eligible host city of the status of the operator's compliance with local ordinances and regulations. If the certification states that the operator is not in compliance, the Department shall require the operator to submit a plan of compliance, corrective action, or request for variance.

B. The Board shall establish by regulation the criteria and procedures for license renewal and for amending licenses to conform to changes in a licensee's gaming operations. Such regulations shall require the operator to submit to the Board any updates or revisions to the capital investment plan provided with the initial license application pursuant to subdivision B 4 of § 58.1-4109. Renewal shall not be unreasonably refused.

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

§ 58.1-4112. Records to be kept; reports.

A. A licensed operator shall keep his books and records so as to clearly indicate the total amount of gross receipts and adjusted gross receipts.

B. The licensed operator shall furnish to the Department reports and information as the Department may require with respect to its activities on forms designated and supplied for such purpose by the Department.

§ 58.1-4113. Audit or financial review of licensed gaming operations.

Within 90 days after the end of each fiscal year, the licensed operator shall transmit to the Department a third party independent 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 4.

Supplier's Permits.

§ 58.1-4114. Supplier's permits; penalty.

A. The Department may issue a supplier's permit to any person upon application and payment of a nonrefundable application fee set by the Department, a determination by the Department that the applicant is eligible for a supplier's permit, and payment of a $5,000 initial permit fee. A supplier's permit shall be renewed annually at a fee to be determined by the Department, not to exceed $5,000.

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

C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment, devices, and supplies conform to standards adopted by the Department.

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

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

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

3. The person is a Board member, employee of the Department, or a member of the immediate household of a Board member or Department employee;

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

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

6. A prior permit issued to such person to own or operate casino gaming establishments or supply goods or services to a gaming operation under this chapter or any laws of any other jurisdiction has been revoked.

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

F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino gaming equipment, devices, and supplies at such locations as may be approved by the Department for the purpose of training enrollees in a school operated by the licensee to train persons who desire to become qualified for employment or promotion in gaming operations. The Board may promulgate regulations for the conduct of any such schools.

G. Each holder of an operator's license under this chapter shall file an annual report with the Department listing its inventories of casino gaming equipment, devices, and supplies related to its operations in Virginia.

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

§ 58.1-4115. Denial of permit final.

The denial of a supplier's permit by the Department shall be final unless appealed under § 58.1-4105. A permit may not be applied for again for a period of five years from the date of denial without the permission of the Department.

Article 5.

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

§ 58.1-4116. Suspension or revocation of license or permit.

A. The Director may suspend, revoke, refuse to renew, or assess a civil penalty against the holder of a license or permit in a sum not to exceed $100,000, after notice and a hearing. Such license or permit may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of the following reasons:

1. Failure to comply with, or violation of, any provision of this chapter or any regulation or condition of the Department;

2. Failure to disclose facts during the application process that indicate that such license or permit should not have been issued;

3. Conviction of a felony under the laws of the Commonwealth or any other state or of the United States subsequent to issuance of a license or permit;

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

5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the integrity of gaming operations;

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

7. Other factors established by Department regulation.

B. Such action by the Director shall be final unless appealed in accordance with § 58.1-4105.

Suspension or revocation of a license or permit for any violation shall not preclude criminal liability for such violation.

§ 58.1-4117. Acquisition of interest in licensee or permit holder.

The Department shall require any person desiring to become a principal of, or other investor in, any licensee or holder of a supplier's permit to apply to the Department for approval and may demand such information of the applicant as it finds necessary. The Department shall consider such application within 60 days of its receipt, and if in its judgment the acquisition by the applicant would be detrimental to the public interest, to the honesty and integrity of gaming operations, or to its reputation, the application shall be denied. All reasonable costs for review by the Department shall be borne by the applicant.

Article 6.

Service Permits.

§ 58.1-4118. Service permit required.

No person shall participate in any gaming operation as a casino gaming employee, concessionaire, or employee thereof or other occupation the Department considers necessary to regulate in order to ensure the integrity of casino gaming in the Commonwealth unless such person possesses a service permit to perform such occupation issued by the Department and complies with the provisions of this chapter and all Department regulations. A service permit issued under the provisions of this chapter may be transferable upon approval of the Department.

§ 58.1-4119. Application for service permit.

A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form prescribed by the Department. The application shall be accompanied by a fee prescribed by the Department.

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

§ 58.1-4120. Consideration of service permit application.

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

B. The Department shall deny the application and refuse to issue the service permit, which denial shall be final unless an appeal is taken under § 58.1-4105, if it finds that the issuance of such service permit to such applicant would not be in the best interests of the Commonwealth or would reflect negatively on the honesty and integrity of casino 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 Department;

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

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

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

5. Is unqualified to perform the duties required for the service 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, distribution or possession of drugs, or any crime considered by the Department to be detrimental to the honesty and integrity of casino gaming in the Commonwealth.

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

§ 58.1-4121. Suspension or revocation of service permit; civil penalty.

A. The Director may suspend, revoke, refuse to renew, or assess a civil penalty against the holder of a service permit in a sum not to exceed $10,000, after notice and a hearing. Such service permit may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the Director. A service permit may be suspended, revoked, or refused renewal by the Director for one or more of the following reasons:

1. Failure to comply with, or violation of, any provision of this chapter, or any regulation or condition of the Department;

2. Failure to disclose facts during the application process that indicate that such service permit should not have been issued;

3. Conviction of a felony under the laws of the Commonwealth or any other state or of the United States subsequent to issuance of a service permit;

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

5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the integrity of gaming operations;

6. A material change, since issuance of the service permit, with respect to any matters required to be considered by the Director under this chapter; or

7. Other factors established by Department regulation.

B. Actions taken by the Director pursuant to this section shall be final unless appealed in accordance with § 58.1-4105. Suspension or revocation of a service permit for any violation shall not preclude criminal liability for such violation.

Article 7.

Conduct of Casino Gaming.

§ 58.1-4122. Conduct of casino gaming.

A. Casino gaming may be conducted by licensed operators, subject to the following:

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

2. Agents of the Department, the Department of State Police, and the local law-enforcement and fire departments may enter any casino gaming establishment and inspect such facility at any time for the purpose of determining compliance with this chapter and other applicable fire prevention and safety laws.

3. Employees of the Department shall have the right to be present in any facilities under the control of the licensee.

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

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

6. Wagers may be received only from a person present at the licensed casino gaming establishment. No person present at such facility shall place or attempt to place a wager on behalf of another person who is not present at the facility.

7. No person under age 21 shall be permitted to make a wager under this chapter or be present where casino gaming is being conducted.

8. No person shall place or accept a wager on youth sports.

9. No licensee or permit holder shall accept postdated checks in payment for participation in any gaming operation. No licensee or permit holder, or any person on the premises of a casino gaming establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in payment for participation in any gaming operation.

B. Casino gaming wagers shall be conducted only with tokens, chips, or electronic cards purchased from a licensed casino gaming operator. Such tokens, chips, or electronic cards may be used only for the purpose of (i) making wagers on games or (ii) making a donation to a charitable entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, provided that the donated tokens, chips, or electronic cards are redeemed by the same charitable entity accepting the donation.

Article 8.

Local Referendum.

§ 58.1-4123. Local referendum required.

A. The Department shall not grant any initial license to operate a gaming operation in an eligible host city until a referendum on the question of whether casino gaming shall be permitted in such city is approved by the voters of such city.

B. The governing body of any city containing an eligible host city shall petition the court, by resolution, asking that a referendum be held on the question of whether casino gaming be permitted within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

C. The clerk of such court of record of such city shall publish notice of such election in a newspaper of general circulation in such city once a week for three consecutive weeks prior to such election.

D. The regular election officers of such city shall open the polls at the various voting places in such city on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral board of the city and on which shall be printed the following question:

"Shall casino gaming be permitted at a casino gaming establishment in _____ (name of city and location) as may be approved by the Virginia Lottery Board?

[ ] Yes
[ ] No"
In the blank shall be inserted the name of the city in which such election is held and the proposed location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.
E. The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Department and to the governing body of such city.
F. A subsequent local referendum shall be required if a license has not been granted by the Board within five years of the court order proclaiming the results of the election.

Article 9.
Taxation.

§ 58.1-4124. Tax rate on adjusted gross receipts.
A. A tax is imposed on the adjusted gross receipts of each licensed operator received from games authorized under this chapter as follows:
1. If a licensed operator has made capital investments of at least $250 million, but less than $350 million, the tax shall be imposed as follows: (i) on the first $150 million of adjusted gross receipts of an operator, a rate of 15 percent; (ii) on adjusted gross receipts of an operator that exceed $150 million but do not exceed $300 million, a rate of 20 percent; and (iii) on any adjusted gross receipts of an operator exceeding $300 million, a rate of 28 percent.
2. If a licensed operator has made capital investments of $350 million or more, the tax shall be imposed as follows: (i) on the first $200 million of adjusted gross receipts of an operator, a rate of 15 percent; (ii) on adjusted gross receipts of an operator that exceed $200 million but do not exceed $400 million, a rate of 20 percent; and (iii) on any adjusted gross receipts of an operator exceeding $400 million, a rate of 28 percent.
B. All tax revenues collected pursuant to the provisions of this section shall accrue to the Gaming Proceeds Fund and be allocated as provided in § 58.1-4125.
C. The taxes imposed by this section shall be paid by the licensed operator to the Department no later than the close of the business day following the day when the adjusted gross receipts were received and shall be accompanied by forms and returns prescribed by the Board. Revenues collected pursuant to this section shall be credited to the Gaming Proceeds Fund to be appropriated as set forth in § 58.1-4125. The Department may suspend or revoke the license of an operator for willful failure to submit the wagering tax payment or the return within the specified time.
§ 58.1-4125. Gaming Proceeds Fund.
A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Proceeds Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.
B. Revenues from the Fund shall be appropriated by the General Assembly as follows:
1. If collected at a casino gaming establishment the operator of which has made a capital investment in such establishment of at least $250 million but less than $350 million, the following amounts shall be appropriated to the city in which they were collected:
a. An amount equal to a five percent tax on the first $150 million of adjusted gross receipts;
b. An amount equal to a six percent tax on the adjusted gross receipts that exceed $150 million but do not exceed $300 million; and
c. An amount equal to a seven percent tax on the adjusted gross receipts that exceed $300 million.
2. If collected at a casino gaming establishment the operator of which has made a capital investment in such establishment of $350 million or more, the following amounts shall be appropriated to the city in which they were collected:
a. An amount equal to a five percent tax on the first $200 million of adjusted gross receipts;
b. An amount equal to a six percent tax on the adjusted gross receipts that exceed $200 million but do not exceed $400 million; and
c. An amount equal to a seven percent tax on the adjusted gross receipts that exceed $400 million.
3. For any casino gaming establishment operated by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary of Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming

activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), an amount equal to a tax of one percent on the adjusted gross receipts of such establishment shall be deposited in the Virginia Indigenous People's Trust Fund established pursuant to § 2.2-401.01.

4. Eight-tenths of one percent of the Fund shall be appropriated to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

5. Two-tenths of one percent of the Fund shall be appropriated to the Family and Children's Trust Fund established pursuant to § 63.2-2100.

6. Any remaining revenues in the Fund shall be appropriated annually as general fund revenues.

Article 10.

Prohibited Acts; Penalties.

§ 58.1-4126. Illegal operation; penalty.

A. No person shall:

1. Operate casino gaming where wagering is used or to be used without a license issued by the Department.

2. Operate casino gaming where wagering is permitted other than in the manner specified by this chapter.

3. Offer, promise, or give anything of value or benefit to a person who is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Director, a Department employee, or a local governing body.

4. Solicit or knowingly accept a promise of anything of value or benefit while the person is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Director, a Department employee, or a local governing body.

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

a. Projecting the outcome of a game;

b. Keeping track of the cards played;

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

d. Analyzing the strategy for playing or betting to be used in a game except as permitted by Department regulation.

6. Cheat at gaming.

7. Manufacture, sell, or distribute any card, chip, dice, game, or device that is 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 that 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 claim, collect, or take 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 casino gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's employment.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony. In addition, any person convicted of a violation of subsection A shall be barred for life from gaming operations under the jurisdiction of the Board.

§ 58.1-4127. 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 Department, or any person who has in his possession any forged or simulated credential, license, or permit of the Department, and who uses such credential, license, or permit for the purposes of misrepresentation, fraud, or touting, is guilty of a Class 4 felony.

Any credential, license, or permit issued by the Department, if used by the holder thereof for a

purpose other than identification and in the performance of legitimate duties in a casino gaming establishment, shall be automatically revoked.

§ 58.1-4128. Prohibition on persons under 21 years of age placing wagers and sports betting on youth sports; penalty.

A. 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 21 years of age or older. No person shall accept any wager from a person under age 21.

B. No person shall wager on or conduct any wagering on the outcome of a youth sports game. No person shall accept any wager from a person on a youth sports game.

C. Violation of this section is a Class 1 misdemeanor.

§ 58.1-4129. Conspiracies and attempts to commit violations; penalty.

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

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

§ 58.1-4130. 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, in addition to other penalties provided, shall be subject to a civil penalty assessed by the Board 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 casino gaming equipment, devices, and supplies used in the conduct of unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

§ 59.1-364. Control of racing with pari-mutuel wagering.

A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The Virginia Racing Commission is vested with control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The Virginia Racing Commission shall encourage participation by local individuals and businesses in those activities associated with horse racing.

B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or wagering and entrance to any place where such racing or wagering is conducted is a privilege which may be granted or denied by the Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter.

C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview of § 11-14.

D. This section shall not apply to any sports betting or related activity that is lawful under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That there is hereby established the Regional Improvement Commission (the Commission). The membership of the Commission shall consist of one member appointed by the local governing body of each jurisdiction composing the transportation district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq. of the Code of Virginia) that includes the eligible host city described in subdivision A 3 of § 58.1-4107 of the Code of Virginia, as created by this act. Each member shall be appointed to serve a two-year term. Notwithstanding the provisions of subdivision B 1 of § 58.1-4125 of the Code of Virginia, as created by this act, for a casino gaming establishment located in the eligible host city described in subdivision A 3 of § 58.1-4107 of the Code of Virginia, as created by this act, such transfer, otherwise returned to the city where it was collected, shall instead be made to the Regional Improvement Commission. The purpose of the Commission shall be to (i) receive disbursements made to it; (ii) establish funding priorities for member localities related to improvements in the areas of education, transportation, and public safety; and (iii) make annual payments divided equally among the jurisdictions to fund the

established priorities as determined by the Commission.

4. That the referendum required by § 58.1-4123 of the Code of Virginia, as created by this act, on the question of whether casino gaming shall be permitted at a casino gaming establishment located in the eligible host city in which such referendum is conducted, shall be conducted in each eligible host city at the regular general election held on November 3, 2020.

5. That the Virginia Racing Commission (the Commission) shall authorize an additional 600 historical racing terminals each time a local referendum required by § 58.1-4123 of the Code of Virginia, as created by this act, is approved, provided that the total number of additional machines authorized in this enactment shall not exceed 2,500 statewide. The increase in historical racing terminals shall not apply with respect to any city where a significant infrastructure limited licensee, as defined in § 59.1-365 of the Code of Virginia, or the affiliate of such licensee is awarded a casino operator's license pursuant to this act. Notwithstanding the provisions of 11VAC10-47-180 and subject to the local referendum requirements of § 59.1-391 of the Code of Virginia, for the machines specifically authorized in this enactment, the Commission shall authorize up to 1,800 machines in a satellite facility in a metropolitan area with a population in excess of 2.5 million located in a jurisdiction that has passed a referendum pursuant to the requirements of § 59.1-391 of the Code of Virginia prior to January 1, 2020, and 500 machines in a metropolitan area with a population in excess of 300,000, provided that no additional machines authorized in this enactment shall be located within 35 miles of an eligible host city as described in § 58.1-4107 of the Code of Virginia, as created by this act. No satellite facility shall be authorized in any locality that is included in the Regional Improvement Commission established in the third enactment of this act. Population determinations pursuant to this enactment shall be based on the 2018 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia. Except as provided herein, the Commission shall not be authorized to promulgate regulations to allow or grant a license to authorize historical horse racing terminals in excess of those permitted by the emergency regulations that became effective on October 5, 2018.

6. That a contract between an eligible host city and its preferred casino gaming operator, as those terms are defined in § 58.1-4100 of the Code of Virginia, as created by this act, shall require the operator to agree that any contractor hired for construction on the site of the casino gaming establishment (the site) shall be required to (i) pay the local prevailing wage rate as determined by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended, to each laborer, workman, and mechanic the contractor employs on the site; (ii) participate in apprenticeship programs that have been certified by the Department of Labor and Industry or the U.S. Department of Labor; (iii) establish preferences for hiring residents of the eligible host city and adjacent localities, veterans, women, and minorities for work performed on the site; (iv) provide health insurance and retirement benefits for all full-time employees performing work on the site; and (v) require that the provisions of clauses (i) through (iv) be included in every subcontract, so that the provisions will be binding upon each subcontractor. The contract between an eligible host city and its preferred casino gaming operator shall also require that the operator agree to (a) pay any of its employees performing work on the site no less than a living wage equal to 125 percent of the federal poverty level; (b) establish preferences for hiring residents of the eligible host city and adjacent localities, veterans, women, and minorities for work performed on the site; (c) provide health insurance and retirement benefits for all full-time employees performing work on the site; and (d) require that any contract for services performed on the site, other than construction, contain the foregoing provisions (a), (b), and (c).