

20109796D

SENATE BILL NO. 36**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Joint Conference Committee
on March 7, 2020)

(Patrons Prior to Substitute—Senators Lucas; Pillion [SB 102], Lewis [SB 374], Norment [SB 609], McPike [SB 743], and McClellan [SB 1083])

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 11, consisting of sections numbered 58.1-4100 through 58.1-4141, 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 11, consisting of sections numbered 58.1-4100 through 58.1-4141, 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

60 the objectives of this subsection.

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

73 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

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

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

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

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

114 9. Discussion or consideration by governing boards of public institutions of higher education of
115 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
116 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
117 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
118 accepted by a public institution of higher education in the Commonwealth shall be subject to public
119 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
120 (i) "foreign government" means any government other than the United States government or the
121 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

183 of such investment.

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

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

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

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

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

223 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
224 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
225 § 56-484.12, related to the provision of wireless E-911 service.

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

232 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
233 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
234 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
235 responsible public entity concerning such records.

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

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

244 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

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

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

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

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

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

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

450 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
451 owned, operated or controlled by any political subdivision, and any public service corporation that
452 operates a public transit system owned by a local government for the conduct of investigations of
453 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
454 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
455 conviction record would be compatible with the nature of the employment, permit, or license under
456 consideration;

457 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
458 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
459 position of employment whenever, in the interest of public welfare or safety and as authorized in the
460 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
461 with a conviction record would be compatible with the nature of the employment under consideration;

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

469 9. To the extent permitted by federal law or regulation, public service companies as defined in
470 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
471 personal contact with the public or when past criminal conduct of an applicant would be incompatible
472 with the nature of the employment under consideration;

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

475 11. A person requesting a copy of his own criminal history record information as defined in
476 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
477 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
478 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
479 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
480 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
481 Solvers or Crime Line program as defined in § 15.2-1713.1;

482 12. Administrators and board presidents of and applicants for licensure or registration as a child
483 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
484 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
485 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
486 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
487 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
488 that the data shall not be further disseminated by the facility or agency to any party other than the data
489 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
490 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

552 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
553 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
554 37.2-607;

555 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
556 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
557 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

561 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
562 determining an individual's fitness for employment in positions designated as sensitive under Department
563 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

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

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

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

593 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
594 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
595 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
596 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

604 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
605 a juvenile's household when completing a predispositional or postdispositional report required by
606 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

607 45. Other entities as otherwise provided by law.

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

612 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
613 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

675 pending;

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

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

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

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

688 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
689 owned, operated or controlled by any political subdivision, and any public service corporation that
690 operates a public transit system owned by a local government for the conduct of investigations of
691 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
692 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
693 conviction record would be compatible with the nature of the employment, permit, or license under
694 consideration;

695 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
696 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
697 position of employment whenever, in the interest of public welfare or safety and as authorized in the
698 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
699 with a conviction record would be compatible with the nature of the employment under consideration;

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

707 9. To the extent permitted by federal law or regulation, public service companies as defined in
708 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
709 personal contact with the public or when past criminal conduct of an applicant would be incompatible
710 with the nature of the employment under consideration;

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

713 11. A person requesting a copy of his own criminal history record information as defined in
714 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
715 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
716 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
717 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
718 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
719 Solvers or Crime Line program as defined in § 15.2-1713.1;

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

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

732 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
733 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
734 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
735 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

736 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

798 convicted of a crime;

799 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
800 determining an individual's fitness for employment in positions designated as sensitive under Department
801 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

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

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

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

831 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
832 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
833 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
834 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

842 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
843 a juvenile's household when completing a predispositional or postdispositional report required by
844 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

847 46. Other entities as otherwise provided by law.

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

852 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
853 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
854 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
855 copy of conviction data covering the person named in the request to the person making the request;
856 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
857 making of such request. A person receiving a copy of his own conviction data may utilize or further
858 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
859 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 ~~Finance 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 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, roulette wheels, Klondike tables, punchboards, faro 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.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"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.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

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

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

"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~~ *seven* members, all of whom shall be citizens and residents of ~~this~~ the 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. *At least one member shall be a law-enforcement officer, and at least one member shall be a certified public accountant authorized to practice in the Commonwealth.* 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.*

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.*

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.*

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.*

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.*

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, roulette wheels, Klondike tables, punchboards, faro 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" or "game" includes on-premises mobile casino gaming.

"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.

"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.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"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 sporting events as such activity is regulated by the Board.

"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.

§ 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,

1167 or unprincipled practices.

1168 B. The conduct of casino gaming shall be limited to the qualified locations established in
1169 § 58.1-4107. The Board shall be limited to the issuance of a single operator's license for each such
1170 qualified location.

1171 C. The conduct of any casino gaming and entrance to such establishment is a privilege that may be
1172 granted or denied by the Board or its duly authorized representatives in its discretion in order to
1173 effectuate the purposes set forth in this chapter. Any proposed site for a casino gaming establishment
1174 shall be privately owned property subject to the local land use and property taxation authority of the
1175 eligible host city in which the casino gaming establishment is located.

1176 **§ 58.1-4102. Powers and duties of the Board; regulations.**

1177 The Board shall have the power and duty to:

1178 1. Issue permits and licenses under this chapter and supervise all gaming operations licensed under
1179 the provisions of this chapter, including all persons conducting or participating in any gaming
1180 operation. The Board shall employ such persons to be present during gaming operations as are
1181 necessary to ensure that such gaming operations are conducted with order and the highest degree of
1182 integrity.

1183 2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the
1184 Commonwealth and all such other regulations it deems necessary and appropriate to further the
1185 purposes of this chapter.

1186 3. Issue an operator's license only to a person who meets the criteria of § 58.1-4107.

1187 4. Issue subpoenas for the attendance of witnesses before the Board, administer oaths, and compel
1188 production of records or other documents and testimony of such witnesses whenever in the judgment of
1189 the Board it is necessary to do so for the effectual discharge of its duties.

1190 5. Order such audits as it deems necessary and desirable.

1191 6. Provide for the withholding of the applicable amount of state and federal income tax of persons
1192 claiming a prize or payoff for winning a game and establish the thresholds for such withholdings.

1193 **§ 58.1-4103. Voluntary exclusion program.**

1194 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program in
1195 the Commonwealth.

1196 B. The regulations shall include the following provisions:

1197 1. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion
1198 program agrees to be excluded from entering a casino gaming establishment.

1199 2. The name of an individual participating in the program shall be included on a list of individuals
1200 excluded from all casino gaming establishments.

1201 3. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion
1202 program may not petition the Board for readmittance to any casino gaming establishment.

1203 4. The list of participants in the voluntary exclusion program and the personal information of the
1204 participants shall be confidential and are not subject to disclosure under the Virginia Freedom of
1205 Information Act (§ 2.2-3700 et seq.). Dissemination of the list of participants by the Board shall be
1206 limited to the owner or operator of a casino gaming establishment for purposes of enforcement and to
1207 other entities, upon request by the participant and agreement by the Board.

1208 5. The operator of a casino gaming establishment shall make all reasonable attempts as determined
1209 by the Board to cease all direct marketing efforts to an individual participating in the program. An
1210 individual's participation in the voluntary exclusion program shall not preclude an operator from
1211 seeking the payment of a debt accrued by such individual prior to entering the program.

1212 **§ 58.1-4104. Fingerprints and background investigations.**

1213 The Board, in conjunction with accredited federal, state, and local law-enforcement agencies, shall
1214 conduct a background investigation, including a criminal history records check and fingerprinting, of
1215 the following individuals: (i) every individual applying for a license or permit pursuant to this chapter;
1216 (ii) every individual who is an officer, director, or principal of a licensee or applicant for a license and
1217 every employee of the licensee who conducts gaming operations; (iii) all security personnel of any
1218 licensee; (iv) all permit holders and officers, directors, principals, and employees of permit holders
1219 whose duties relate to gaming operations in Virginia; and (v) any other individual determined by the
1220 Department to be an active participant in the casino gaming activities of any licensee or permit holder
1221 or applicant for a license or permit. Each such individual shall submit his fingerprints and personal
1222 descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal
1223 Bureau of Investigation for a national criminal records search and to the Department of State Police for
1224 a Virginia criminal history records check.

1225 **§ 58.1-4105. Hearing and appeal.**

1226 Any person aggrieved by a refusal of the Department to issue any license or permit, the suspension
1227 or revocation of a license or permit, the imposition of a fine, or any other action of the Department may
1228 seek review of such action in accordance with Department regulations and Article 3 (§ 2.2-4018 et seq.)

of the Administrative Process Act 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. 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 practically 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 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 businesses and the proposer's commitment to solicit contracts with minority-owned businesses for the purchase of goods and services.

C. The Department shall, upon request of any eligible host city, provide a list of resources that may be of assistance in evaluating the technical merits of any proposal submitted pursuant to this section, provided that selection of the preferred casino gaming operator shall be at the city's sole discretion.

D. The eligible host city described in subdivisions A 4 shall provide substantial and preferred consideration to a proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54

1290 (1983) and acknowledged by the Assistant Secretary-Indian Affairs for the U.S. Department of the
1291 Interior as an Indian tribe within the meaning of federal law that has the authority to conduct gaming
1292 activities as a matter of claimed inherent authority or under the authority of the Indian Gaming
1293 Regulatory Act (25 U.S.C. § 2701 et seq.).

1294 E. The eligible host city described in subdivisions A 5 may provide preferred consideration to a
1295 proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and
1296 acknowledged by the Assistant Secretary-Indian Affairs for the U.S. Department of the Interior as an
1297 Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a
1298 matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25
1299 U.S.C. § 2701 et seq.).

1300 F. An eligible host city shall promptly submit its preferred casino gaming operator to the
1301 Department for review prior to scheduling the referendum required by § 58.1-4123. An eligible host city
1302 shall include with the submission any written or electronic documentation considered as part of the
1303 criteria in subsection B, including any memorandums of understanding, incentives, development
1304 agreements, land purchase agreements, or local infrastructure agreements. The Department shall
1305 conduct a preliminary review of the financial status and ability of the preferred casino gaming operator
1306 to operate and properly support ongoing operations in an eligible host city, as well as current casino
1307 operations in other states and territories. The Department shall conduct such review within 45 days of
1308 receipt of the submission by the eligible host city. An eligible host city and preferred casino gaming
1309 operator shall fully cooperate with all necessary requests by the Department in that regard. Upon
1310 successful preliminary review, the Department shall certify approval for the eligible host city to proceed
1311 to the referendum required by § 58.1-4123. The Department shall develop guidelines establishing
1312 procedures and criteria for conducting the preliminary review required by this subsection. Certification
1313 by the Department to proceed to referendum shall in no way entitle the preferred casino gaming
1314 operator to approval of any application to operate a casino gaming establishment.

1315 Article 3.

1316 Licenses.

1317 **§ 58.1-4108. Operator's license required; capital investment; equity interest; transferability; fee.**

1318 A. No person shall operate a casino gaming establishment unless he has obtained an operator's
1319 license issued by the Department in accordance with the provisions of this chapter and the regulations
1320 promulgated hereunder.

1321 B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall (i)
1322 make a capital investment of at least \$300 million in a casino gaming establishment, including the value
1323 of the real property upon which such establishment is located and all furnishings, fixtures, and other
1324 improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming
1325 establishment.

1326 C. A license issued under the provisions of this chapter shall be transferable, provided that the
1327 Department has approved the proposed transfer and all licensure requirements are satisfied at the time
1328 the transfer takes effect.

1329 D. A nonrefundable fee of \$15 million shall be paid by the applicant to the Department upon the
1330 issuance of a license and upon any subsequent transfer of a license to operate a casino gaming
1331 establishment.

1332 E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license
1333 for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently
1334 created online sports betting license.

1335 **§ 58.1-4109. Submission of preferred casino gaming operator by eligible host city; application for**
1336 **operator's license; penalty.**

1337 A. If a majority of those voting in a referendum held pursuant to § 58.1-4123 vote in the affirmative,
1338 the eligible host city shall certify its preferred casino gaming operator and submit such certification to
1339 the Department within 30 days.

1340 B. Any preferred casino gaming operator desiring to operate a casino gaming establishment shall file
1341 with the Department an application for an operator's license. Such application shall be filed at the
1342 place prescribed by the Department and shall be in such form and contain such information as
1343 prescribed by the Department, including but not limited to the following:

1344 1. The name and address of such person; if a corporation, the state of its incorporation, the full
1345 name and address of each officer and director thereof, and, if a foreign corporation, whether it is
1346 qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address
1347 of each general partner thereof; if a limited liability company, the name and address of each manager
1348 thereof; or, if another entity, the name and address of each person performing duties similar to those of
1349 officers, directors, and general partners;

1350 2. The name and address of each principal and of each person who has contracted to become a
1351 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 for each principal 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, the 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 casino gaming allowed under certain conditions.

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 Board shall issue an operator's license to such preferred casino gaming operator. The Board 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 Board may issue an operator's license to an applicant 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

1413 require the resignation of, any person who is or becomes disqualified under subsection C;
1414 8. The applicant meets any other criteria established by this chapter and the Board's regulations for
1415 the granting of an operator's license;
1416 9. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts
1417 of the Commonwealth; and
1418 10. The applicant has not previously been denied a license pursuant to subsection C.
1419 C. The Board shall deny a license to an applicant if it finds that for any reason the issuance of a
1420 license to the applicant would reflect adversely on the honesty and integrity of the casino gaming
1421 industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of
1422 the applicant:
1423 1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations
1424 in this or any other state or has been convicted of a felony;
1425 2. Has had a license or permit to hold or conduct a gaming operation denied for cause, suspended,
1426 or revoked, in this or any other state or country, unless the license or permit was subsequently granted
1427 or reinstated;
1428 3. Has at any time during the previous five years knowingly failed to comply with the provisions of
1429 this chapter or any Department regulation;
1430 4. Has knowingly made a false statement of material fact to the Department or has deliberately
1431 failed to disclose any information requested by the Department;
1432 5. Has defaulted in the payment of any obligation or debt due to the Commonwealth and has not
1433 cured such default; or
1434 6. Has operated or caused to be operated a casino gaming establishment for which a license is
1435 required under this chapter without obtaining such license.
1436 D. The Board shall make a determination regarding whether to issue the operator's license within 12
1437 months of the receipt of a completed application.
1438 E. The Board shall be limited to the issuance of one operator's license for each eligible host city.
1439 F. The Department may authorize casino gaming to occur on a temporary basis for a period of one
1440 year under the following conditions:
1441 1. The request to authorize casino gaming is made by a preferred casino gaming operator that has
1442 been issued a license pursuant to § 58.1-4110.
1443 2. The preferred casino gaming operator has submitted as a part of its application for licensure a
1444 construction schedule for a casino gaming establishment that has been approved by the eligible host city
1445 and the Department.
1446 3. The temporary casino gaming is to be conducted at the same site referenced in the referendum
1447 held pursuant to § 58.1-4123.
1448 4. The preferred casino gaming operator has secured suppliers and employees holding the
1449 appropriate permits required by this chapter and sufficient for the routine operation of the site where
1450 the temporary casino gaming is authorized.
1451 5. A performance bond is posted in an amount acceptable to the Board.
1452 G. No portion of any facility developed with the assistance of any grants or loans provided by a
1453 redevelopment and housing authority created pursuant to § 36-4 shall be used as a casino gaming
1454 establishment.
1455 The Department may renew the authorization to conduct temporary casino gaming for an additional
1456 year if it determines that the preferred casino gaming operator has made a good faith effort to comply
1457 with the approved construction schedule.
1458 **§ 58.1-4111. Duration and form of operator's license; bond.**
1459 A. A casino gaming operator license under this chapter shall be valid for a period of 10 years from
1460 its date of issuance but shall be reviewed no less frequently than annually to determine compliance with
1461 this chapter and Department regulations. Such annual review shall include a certification by the eligible
1462 host city of the status of the operator's compliance with local ordinances and regulations. If the
1463 certification states that the operator is not in compliance, the Department shall require the operator to
1464 submit a plan of compliance, corrective action, or request for variance.
1465 B. The Board shall establish by regulation the criteria and procedures for license renewal and for
1466 amending licenses to conform to changes in a licensee's gaming operations. Such regulations shall
1467 require the operator to submit to the Board any updates or revisions to the capital investment plan
1468 provided with the initial license application pursuant to subdivision B 4 of § 58.1-4109. Renewal shall
1469 not be unreasonably refused.
1470 C. The Department shall require a bond with surety acceptable to it, and in an amount determined
1471 by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.
1472 **§ 58.1-4112. Records to be kept; reports; reinvestment projection.**
1473 A. A licensed operator shall keep his books and records so as to clearly indicate the total amount of
1474 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.

C. Every five years the licensed operator shall submit to the Department for review and approval a reinvestment projection related to the casino gaming establishment to cover the succeeding five year period of operations.

§ 58.1-4113. Electronic accounting and reporting requirements; annual audit of licensed gaming operations.

A. Each casino game that operates electronically shall be connected to a central monitoring and audit system established and operated by the Department. Such system shall provide the ability to audit and account for terminal revenues and distributions in real time. The central monitoring and audit system shall collect the following information from each electronically operated casino game, as applicable: (i) cash in, (ii) cash out, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii) the number of plays of the game, (viii) the amounts paid to play the game, (ix) door openings, (x) power failures, (xi) remote activations and disabling, and (xii) any other information required by Board regulations.

B. 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 Board may issue a supplier's permit to any person upon application and payment of a nonrefundable application fee set by the Board, a determination by the Board 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 described in subdivision 1, 2, or 3 is an officer, director, principal, or managerial employee;

5. The firm or corporation employs a person who participates in the management or operation of 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 individuals 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 Board 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 Board for approval and may demand such information of the applicant as it finds necessary. The Board 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 Board 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 or concessionaire or employee of either or in any other occupation that the Board has determined 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 Board. The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of service permits.

§ 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.

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 Department regulations.

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 shall 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 on the adjusted gross receipts of each licensed operator received from games authorized under this chapter shall be imposed as follows:

1. On the first \$200 million of adjusted gross receipts of an operator, a rate of 18 percent.

2. On the adjusted gross receipts of an operator that exceed \$200 million but do not exceed \$400 million, a rate of 23 percent.

3. On the adjusted gross receipts of an operator that exceed \$400 million, a rate of 30 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 fifth day of each month for the preceding month 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. The following amounts shall be appropriated to the city in which they were collected:

a. An amount equal to a six percent tax on the first \$200 million of adjusted gross receipts;

b. An amount equal to a seven percent tax on the adjusted gross receipts that exceed \$200 million but do not exceed \$400 million; and

c. An amount equal to an eight percent tax on the adjusted gross receipts that exceed \$400 million.

2. 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.

3. 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.

4. 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.

5. 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.

1782 12. Possess any key or device designed for the purpose of opening, entering, or affecting the
1783 operation of a game, drop box, or electronic or mechanical device connected with the game or for
1784 removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino
1785 gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's
1786 employment.

1787 B. Any person convicted of a violation of this section is guilty of a Class 6 felony. In addition, any
1788 person convicted of a violation of subsection A shall be barred for life from gaming operations under
1789 the jurisdiction of the Board.

1790 **§ 58.1-4127. Fraudulent use of credential; penalty.**

1791 Any person other than the lawful holder thereof who has in his possession any credential, license, or
1792 permit issued by the Department, or any person who has in his possession any forged or simulated
1793 credential, license, or permit of the Department, and who uses such credential, license, or permit for the
1794 purposes of misrepresentation, fraud, or touting, is guilty of a Class 4 felony.

1795 Any credential, license, or permit issued by the Department, if used by the holder thereof for a
1796 purpose other than identification and in the performance of legitimate duties in a casino gaming
1797 establishment, shall be automatically revoked.

1798 **§ 58.1-4128. Prohibition on persons under 21 years of age placing wagers and sports betting on**
1799 **youth sports; penalty.**

1800 A. No person shall wager on or conduct any wagering on the outcome of a game pursuant to the
1801 provisions of this chapter unless such person is 21 years of age or older. No person shall accept any
1802 wager from a person under age 21.

1803 B. No person shall wager on or conduct any wagering on the outcome of a youth sports game. No
1804 person shall accept any wager from a person on a youth sports game.

1805 C. Violation of this section is a Class 1 misdemeanor.

1806 **§ 58.1-4129. Conspiracies and attempts to commit violations; penalty.**

1807 A. Any person who conspires, confederates, or combines with another, either within or outside the
1808 Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 6 felony.

1809 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal
1810 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1811 **§ 58.1-4130. Civil penalties.**

1812 Any person who conducts a gaming operation without first obtaining a license to do so, or who
1813 continues to conduct such games after revocation of his license, in addition to other penalties provided,
1814 shall be subject to a civil penalty assessed by the Board equal to the amount of gross receipts derived
1815 from wagering on games, whether unauthorized or authorized, conducted on the day, as well as
1816 confiscation and forfeiture of all casino gaming equipment, devices, and supplies used in the conduct of
1817 unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State
1818 Treasurer for deposit to the general fund.

1819 Article 11.

1820 On-premises Mobile Casino Gaming.

1821 **§ 58.1-4131. Federal law applicable.**

1822 On-premises mobile casino gaming shall be subject to the provisions of, and preempted and
1823 superseded by, any applicable federal law.

1824 **§ 58.1-4132. Authorized on-premises mobile casino gaming.**

1825 On-premises mobile casino gaming is prohibited except when offered by a casino gaming operator to
1826 individuals who participate in on-premises mobile casino gaming on the premises of the casino gaming
1827 establishment. Any casino gaming operator that offers on-premises mobile casino gaming shall comply
1828 with any regulations promulgated by the Board related to on-premises mobile casino gaming.

1829 **§ 58.1-4133. Location of primary on-premises mobile casino gaming operation.**

1830 A. A casino gaming operator's primary on-premises mobile casino gaming operation, including
1831 facilities, equipment, and personnel who are directly engaged in the conduct of on-premises mobile
1832 casino gaming, shall be located within a restricted area on the premises of the casino gaming
1833 establishment. Backup equipment used on a temporary basis pursuant to regulations promulgated by the
1834 Board to conduct on-premises mobile casino gaming may, with the approval of the Department, be
1835 located outside the territorial limits of a casino gaming establishment.

1836 B. Facilities used to conduct and support on-premises mobile casino gaming shall:

1837 1. Be arranged in a manner promoting optimum security;

1838 2. Include a closed circuit visual monitoring system according to specifications approved by the
1839 Department, with access on the premises to the system or its signal provided to the Department;

1840 3. Not be designed in any way that might interfere with the ability of the Department to supervise
1841 on-premises mobile casino gaming operations; and

1842 4. Comply in all respects with regulations of the Board pertaining thereto.

1843 **§ 58.1-4134. On-premises mobile casino gaming accounts.**

A. A casino gaming operator may offer on-premises mobile casino gaming only to an individual who has established an on-premises mobile casino gaming account and uses such account to place wagers as follows:

1. Any wager shall be placed directly with the casino gaming operator by the account holder;
2. The casino gaming operator shall verify the account holder's physical presence on the premises of the casino gaming establishment; and
3. The account holder shall provide the casino licensee with the correct authentication information for access to the wagering account.

B. A casino gaming operator shall not accept a wager in an amount in excess of funds on deposit in the account of the individual placing the wager.

§ 58.1-4135. Disposition of inactive, dormant accounts.

All amounts remaining in on-premises mobile casino gaming accounts inactive or dormant for such period and under such conditions as established by regulation by the Board shall be closed. Any funds remaining in the account at such time shall be paid 50 percent to the casino gaming operator and 50 percent to the general fund. Before closing an account pursuant to this section, the casino gaming operator shall attempt to contact the account holder by mail, phone, and electronic.

§ 58.1-4136. Assistance to people with gambling problem.

A. In order to assist those persons who may have a gambling problem, a casino gaming operator shall:

1. Cause the words "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER," or some comparable language approved by the Department, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to be displayed prominently at log-on and log-off times to any person visiting or logged onto on-premises mobile casino gaming; and
2. Provide a mechanism by which an account holder may establish the following controls on wagering activity through the wagering account:

a. A limit on the amount of money deposited within a specified period of time and the length of time the account holder will be unable to participate in gaming if the holder reaches the established deposit limit; and

b. A temporary suspension of gaming through the account for any number of hours or days.

B. The casino gaming operator shall not send gaming-related electronic mail to an account holder while gaming through his account is suspended, if the suspension is for at least 72 hours. The casino gaming operator shall provide a mechanism by which an account holder may change these controls, except that, while gaming through the wagering account is suspended, the account holder may not change gaming controls until the suspension expires, but the account holder shall continue to have access to the account and shall be permitted to withdraw funds from the account upon proper application therefor.

§ 58.1-4137. Offering of on-premises mobile casino gaming without approval; penalties.

Any person who offers on-premises mobile casino gaming in violation of this article or regulations promulgated thereunder is guilty of a Class 6 felony and subject to a fine of not more than \$25,000 and, in the case of a person other than a natural person, to a fine of not more than \$100,000.

§ 58.1-4138. Tampering with equipment; penalties.

A. Any person who knowingly tampers with software, computers, or other equipment used to conduct on-premises mobile casino gaming to alter the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the Board is guilty of a Class 5 felony and subject to a fine of not more than \$50,000 and, in the case of a person other than a natural person, to a fine of not more than \$200,000.

B. In addition to the penalties provided in subsection A, an employee of the casino gaming operator who violates this section shall have his license revoked and shall be subject to such further penalty as the Department deems appropriate.

C. In addition to the penalties provided in subsection A, a casino gaming operator that violates this section shall have its license to conduct casino gaming suspended for a period determined by the Department and shall be subject to such further penalty as the Department deems appropriate.

§ 58.1-4139. Tampering affecting odds, payout; penalties.

A. Any person who knowingly offers or allows to be offered any on-premises mobile casino game that has been tampered with in a way that affects the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the Board is guilty of a Class 5 felony and subject to a fine of not more than \$50,000 and, in the case of a person other than a natural person, to a fine of not more than \$200,000.

B. In addition to the penalties provided in subsection A, an employee of the casino gaming operator who violates this section shall have his license suspended for a period of not less than 30 days.

C. In addition to the penalties provided in subsection A, a casino gaming operator that violates this

1905 *section shall have its permit to conduct casino gaming suspended for a period of not less than 30 days.*
1906 **§ 58.1-4140. Facilities permitted to conduct on-premises mobile casino gaming; violations,**
1907 **penalties.**

1908 *No person shall make its premises available for on-site mobile casino gaming or advertise that its*
1909 *premises may be used for such purpose, other than a casino gaming operator that (i) has located all of*
1910 *its equipment used to conduct on-premises mobile casino gaming, including computers, servers,*
1911 *monitoring rooms, and hubs, on the premises of its casino gaming establishment and (ii) that offers*
1912 *on-site mobile casino gaming only to individuals who participate in such gaming on the premises of the*
1913 *casino gaming establishment. Any person that is determined by the Department to have violated the*
1914 *provisions of this section shall be subject to a penalty of \$1,000 per player per day for making its*
1915 *premises available for on-premises mobile casino gaming and of \$10,000 per violation for advertising*
1916 *that its premises may be used for such purpose.*

1917 **§ 58.1-4141. Taxation**

1918 *Any gross receipts from on-premises mobile casino gaming shall be included in a casino gaming*
1919 *operator's adjusted gross receipts and subject to taxation pursuant to the provisions of Article 9*
1920 *(§ 58.1-4124 et seq.).*

1921 **§ 59.1-364. Control of racing with pari-mutuel wagering.**

1922 *A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the*
1923 *Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent*
1924 *with the health, safety and welfare of the people. The Virginia Racing Commission is vested with*
1925 *control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to*
1926 *prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to*
1927 *maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent,*
1928 *dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The*
1929 *Virginia Racing Commission shall encourage participation by local individuals and businesses in those*
1930 *activities associated with horse racing.*

1931 *B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or*
1932 *wagering and entrance to any place where such racing or wagering is conducted is a privilege which*
1933 *may be granted or denied by the Commission or its duly authorized representatives in its discretion in*
1934 *order to effectuate the purposes set forth in this chapter.*

1935 *C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility*
1936 *licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview*
1937 *of § 11-14.*

1938 *D. This section shall not apply to any sports betting or related activity that is lawful under Chapter*
1939 *41 (§ 58.1-4100 et seq.) of Title 58.1.*

1940 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
1941 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
1942 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
1943 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
1944 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
1945 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
1946 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**

1947 **3. That the Virginia Lottery Board shall promulgate regulations to implement the provisions of**
1948 **this act to be effective within 280 days of its enactment.**

1949 **4. That if the Virginia Lottery (the Lottery) administers a program under which the Lottery issues**
1950 **licenses or permits to operate online sports betting platforms or sports betting facilities, the**
1951 **Lottery shall issue any such licenses or permits to any casino gaming operator licensed under**
1952 **Article 3 (§ 58.1-4108) of Chapter 41 of Title 58.1 of the Code of Virginia, as created by this act,**
1953 **regardless of whether such casino gaming operator otherwise meets the requirements for obtaining**
1954 **such license or permit. Any casino gaming operator receiving a license or permit to operate an**
1955 **online sports betting platform and a sports betting facility pursuant to the provisions of this**
1956 **enactment shall be subject to all Virginia statutory or regulatory laws governing sports betting,**
1957 **including: (i) laws defining sports betting and prohibiting any activities related thereto; (ii) fees for**
1958 **applications, licenses, and permits, and any other payments required by the Lottery; and (iii) taxes**
1959 **for offering sports betting. Notwithstanding any law to the contrary, a casino gaming operator**
1960 **receiving a license or permit to operate an online sports betting platform or a sports betting**
1961 **facility pursuant to the provisions of this enactment shall not allow wagering on any athletic event**
1962 **in which at least one participant is a team from a Virginia public or private institution of higher**
1963 **education. Any license or permit issued pursuant to the provisions of this enactment shall expire**
1964 **whenever the casino gaming operator is no longer licensed under Article 3 (§ 58.1-4108) of**
1965 **Chapter 41 of Title 58.1 of the Code of Virginia, as created by this act.**

1966 **5. 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 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.

6. 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 described in subdivisions A 1 through 4 of § 58.1-4107 of the Code of Virginia, as created by this act, at the regular general election held on November 3, 2020, unless a court of competent jurisdiction sets an alternative date.

7. 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 2,000 statewide. The tax rate for any machine added pursuant to this enactment clause shall be 20 percent as calculated and distributed pursuant to the method used to calculate and distribute such rate in effect for machines in existence as of January 1, 2020. For every 100 additional machines authorized pursuant to this enactment clause, the total number of live horse racing days shall be increased by one day. Excluding machines installed as of March 1, 2020, each location operating historical racing terminals shall be prohibited from having more than forty percent of its terminals manufactured by any single manufacturer. 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 1,650 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 fifth 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.

8. 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 full-time employees performing work on the site an

2028 hourly wage or a salary, including tips, that equates to an hourly rate no less than 125 percent of
2029 the federal minimum wage; (b) establish preferences for hiring residents of the eligible host city
2030 and adjacent localities, veterans, women, and minorities for work performed on the site in
2031 compliance with any applicable federal law; (c) provide access to health insurance and retirement
2032 savings benefit opportunities for all full-time employees of the operator performing work on the
2033 site; and (d) require that any contract for services performed on the site, other than construction,
2034 with projected annual services fees exceeding \$500,000, meet the requirements of clauses (a), (b),
2035 and (c) with regard to full-time personnel of the subcontractor who will be performing services
2036 under the contract between the operator and the subcontractor.