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**SENATE BILL NO. 743**

Offered January 8, 2020

Prefiled January 8, 2020

A *BILL to amend and reenact §§ 2.2-3711, 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 25 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2544 through 2.2-2553, 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 9, consisting of sections numbered 58.1-4100 through 58.1-4130, relating to regulation of casino gaming by Virginia Lottery Board; Casino Gaming Establishment Location Commission; penalties.*

Patron—McPike

Referred to Committee on General Laws and Technology

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-3711, 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 25 of Title 2.2 an article numbered 11, consisting of sections numbered 2.2-2544 through 2.2-2553, 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 9, consisting of sections numbered 58.1-4100 through 58.1-4130, as follows:

*Article 11.**Casino Gaming Establishment Location Commission.***§ 2.2-2544. Definitions.**

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

"Board" means the Lottery Board.

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

"Casino gaming establishment" means the premises upon which lawful casino gaming is authorized and licensed as provided in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1. "Casino gaming establishment" does not include a riverboat or similar vessel.

**§ 2.2-2545. Casino Gaming Establishment Location Commission; purpose.**

The Casino Gaming Establishment Location Commission (the Commission) is established as an advisory commission in the executive branch of state government. The purpose of the Commission is to evaluate and select proposals for the operation and development of casino gaming establishments regulated under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.

**§ 2.2-2546. Membership; terms; quorum; meetings.**

A. The Commission shall have a total membership of 14, consisting of 12 nonlegislative citizen members and two ex officio members. The nonlegislative citizen members shall be appointed as follows:

1. One member to be appointed by the Speaker of the House of Delegates;
2. One member to be appointed by the Senate Committee on Rules;
3. Five members to be appointed by the Governor, subject to confirmation by the General Assembly;

and

4. One member to be appointed by the governing body of each of the five localities in which a qualified location is located as described in subsection C of § 2.2-2550.

The Secretaries of Administration and Finance, or their designees, shall serve ex officio with voting privileges. Nonlegislative citizen members shall meet the qualifications established in § 2.2-2547. Each nonlegislative citizen member appointed pursuant to subdivision 4 shall be qualified to evaluate or vote on the award of a proposal for the operation and development of a casino gaming establishment to be located within his appointing locality and shall not be qualified to evaluate or vote on the award of a proposal for the operation and development of a casino gaming establishment to be located in a different locality.

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59 *B. Ex officio members of the Commission shall serve terms coincident with their terms of office.*  
60 *Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill*  
61 *vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled*  
62 *in the same manner as the original appointments. All members may be reappointed.*

63 *C. The Commission shall elect a chairman and vice-chairman from among its membership. A*  
64 *majority of the members shall constitute a quorum. For the purposes of establishing a quorum for the*  
65 *evaluation and award of a proposal for the operation and development of a casino gaming*  
66 *establishment, only those members entitled to vote on such proposal shall be counted and a majority of*  
67 *such members shall constitute a quorum. The meetings of the Commission shall be held at the call of*  
68 *the chairman or whenever the majority of the members so request.*

69 **§ 2.2-2547. Qualifications for Commission members.**

70 *A. Nonlegislative citizen members shall be citizens of the Commonwealth, shall have substantial*  
71 *experience in fiscal or financial matters, and shall have at least 10 years' experience (i) as an executive*  
72 *with fiduciary responsibilities in a large business entity or foundation, (ii) in an academic field relating*  
73 *to finance or economics, or (iii) as an economist, financial analyst, or accountant, or as a professional*  
74 *in a similar profession relating to fiscal matters or economics.*

75 *B. In addition, nonlegislative citizen members shall not:*

76 *1. Have been convicted of a felony or any crime that involves gambling.*

77 *2. Have any direct or indirect financial, ownership, or management interest in any gaming activities,*  
78 *including any charitable gaming, pari-mutuel wagering, or lottery.*

79 *3. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities,*  
80 *including any charitable gaming, pari-mutuel wagering, or lottery.*

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

84 *C. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.)*  
85 *shall apply to the members of the Commission.*

86 **§ 2.2-2548. Compensation; expenses.**

87 *Members shall receive such compensation for the performance of their duties as provided in*  
88 *§ 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the*  
89 *performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of*  
90 *compensation and expenses of the members shall be provided by the Virginia Lottery.*

91 **§ 2.2-2549. Staffing; use of consultant.**

92 *A. The Lottery Department shall provide staff support to the Commission. All agencies of the*  
93 *Commonwealth shall provide assistance to the Commission, upon request.*

94 *B. The Commission shall contract with an independent consultant to assist the Commission in*  
95 *assessing the accuracy and reasonableness of the projected financial, economic, and other benefits*  
96 *included in each casino gaming establishment development proposal. Compensation for any consultant*  
97 *shall be payable from funds made available to the Commission.*

98 **§ 2.2-2550. Evaluation and award proposals; limitation on award of proposals; qualified locations.**

99 *A. The Commission shall evaluate and award proposals for the operation and development of casino*  
100 *gaming establishments using a competitive process consistent with the Virginia Public Procurement Act*  
101 *(§ 2.2-4300 et seq.) and that considers criteria established by § 2.2-2551.*

102 *B. The Commission shall be limited to the award of one proposal for each city in the qualified*  
103 *locations listed in subsection C.*

104 *C. Qualified locations for casino gaming establishments shall be limited to:*

105 *1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such locality is*  
106 *exempt from local property taxation, according to the Virginia Department of Taxation Annual Report*  
107 *for Fiscal Year 2018, and (ii) that experienced a population decrease of at least seven percent from*  
108 *1990 to 2016, according to data provided by the U.S. Census Bureau;*

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

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

120 *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, and (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.

**§ 2.2-2551. Factors for award of proposals.**

A. In awarding a proposal for the operation and development of a casino gaming establishment, the Commission shall evaluate the factors using the weighted criteria as provided in subsections B, C, and D.

B. The decision by the Commission shall be weighted by 70 percent based on the following factors:

1. The highest potential benefit and prospective revenues to be derived by the Commonwealth based on a market analysis.

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

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

4. The proposer's experience in the operation of a casino gaming establishment.

5. The feasibility and sustainability of the project based on the strength of the proposer's business plan.

6. The amount of gross revenues to be allocated to the proposed operator over the term of the proposed license, including any amount of such revenue that the proposer is willing to forgo as a cash payment to the Commonwealth.

7. The capital construction plans and competitiveness of the proposed casino gaming establishment, including design creativity.

8. Security plans for the proposed casino gaming establishment.

9. The extent to which the proposed location of the casino gaming establishment demonstrates that the development will be a substantial regional and national tourist destination.

10. The percent of ownership in the proposer by a minority-owned business as defined in § 2.2-1604.

11. Any adverse effect that the gaming location may have on other existing legal gaming activities, including any charitable gaming, pari-mutuel wagering, or lottery.

In addition, proposals for the operation and development of a casino gaming establishment for the qualified location described by subdivision C 4 of § 2.2-2550 shall include under the weighted criteria of this subsection the percent of ownership in the proposer by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the U.S. Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.

C. The decision by the Commission shall be weighted by 15 percent based on the extent to which the proposed location of the casino gaming establishment contributes to the economic development of the locality and the surrounding region, including (i) anticipated wages and benefits for new jobs to be created and (ii) any additional economic development planned in the area of the proposed facility.

D. The decision by the Commission shall be weighted by 15 percent based on the following factors:

1. The impact of the proposed casino gaming establishment on the existing transportation infrastructure surrounding the proposed facility, including (i) the negative impact, if any, of the proposed casino gaming establishment on the surrounding residential community, (ii) the need for any additional public infrastructure expenditures, and (iii) any traffic mitigation plans offered by the proposer; and

2. Local community support for the operation and development of the proposed casino gaming establishment.

**§ 2.2-2552. Notification of successful proposers; procedure for review by the Lottery Board.**

The Commission shall refer approved proposals to the Lottery Board, including the name and all relevant information concerning the applicant providing the successful proposal. Upon receipt of this information, the Lottery Board shall evaluate whether the applicant is qualified to hold an operator's license under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1. The Lottery Board shall inform the Commission of its decision regarding referred applicants.

After award of an operator's license, the Lottery Board shall be responsible for all matters related to the regulation of the operator.

**§ 2.2-2553. Sunset.**

This article shall expire on July 1, 2023.

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or

182 schools of public institutions of higher education where such evaluation will necessarily involve  
183 discussion of the performance of specific individuals. Any teacher shall be permitted to be present  
184 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that  
185 involves the teacher and some student and the student involved in the matter is present, provided the  
186 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing  
187 in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body  
188 or an elected school board to discuss compensation matters that affect the membership of such body or  
189 board collectively.

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

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

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

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

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

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

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

218 9. Discussion or consideration by governing boards of public institutions of higher education of  
219 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
220 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
221 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
222 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
223 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
224 (i) "foreign government" means any government other than the United States government or the  
225 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
226 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of  
227 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
228 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created  
229 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a  
230 citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

242 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
243 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing

body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

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

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

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development

305 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
306 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
307 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
308 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
309 Medical School, as the case may be.

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

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

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

327 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
328 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §  
329 56-484.12, related to the provision of wireless E-911 service.

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

336 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
337 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
338 defined in § 33.2-1800, or any independent review panel appointed to review information and advise  
339 the responsible public entity concerning such records.

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

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

348 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
349 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
350 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

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

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

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

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

364 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
365 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and  
366 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.

428 52. *Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to*  
429 *§ 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion,*  
430 *consideration, or review of matters related to investigations exempted from disclosure under subdivision*  
431 *1 of § 2.2-3705.3.*

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

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

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

442 E. This section shall not be construed to (i) require the disclosure of any contract between the  
443 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
444 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
445 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
446 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
447 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
448 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
449 of such bonds.

450 **§ 11-16.1. Exemption from the chapter.**

451 *This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41*  
452 *(§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct*  
453 *lawful thereunder.*

454 **§ 18.2-334.5. Exemptions to article; certain gaming operations.**

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

457 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**  
458 **information.**

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

461 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
462 purposes of the administration of criminal justice and the screening of an employment application or  
463 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
464 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
465 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
466 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
467 purposes of this subdivision, criminal history record information includes information sent to the Central  
468 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
469 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
470 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
471 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
472 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

488 5. Agencies of state or federal government that are authorized by state or federal statute or executive  
489 order of the President of the United States or Governor to conduct investigations determining



employment suitability or eligibility for security clearances allowing access to classified information;

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

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

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

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

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

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

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

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

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

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

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

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

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

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to

551 voter registration, limited to any record of felony convictions;

552 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
553 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
554 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

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

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

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

577 26. Executive directors of community services boards or the personnel director serving the  
578 community services board for the purpose of determining an individual's fitness for employment,  
579 approval as a sponsored residential service provider, or permission to enter into a shared living  
580 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to  
581 §§ 37.2-506 and 37.2-607;

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

586 28. The Commissioner of Social Services for the purpose of locating persons who owe child support  
587 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the  
588 name, address, demographics and social security number of the data subject shall be released;

589 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
590 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
591 purpose of determining if any applicant who accepts employment in any direct care position or requests  
592 approval as a sponsored residential service provider or permission to enter into a shared living  
593 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
594 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
595 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and  
596 37.2-607;

597 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
598 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
599 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45. Other entities as otherwise provided by law.

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

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

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

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

674 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
675 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

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

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

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

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

696 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

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

699 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
700 purposes of the administration of criminal justice and the screening of an employment application or  
701 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
702 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
703 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
704 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
705 purposes of this subdivision, criminal history record information includes information sent to the Central  
706 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
707 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
708 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
709 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
710 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

consideration;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the

797 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
798 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
799 services;

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

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

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

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

815 26. Executive directors of community services boards or the personnel director serving the  
816 community services board for the purpose of determining an individual's fitness for employment,  
817 approval as a sponsored residential service provider, or permission to enter into a shared living  
818 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to  
819 §§ 37.2-506 and 37.2-607;

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

824 28. The Commissioner of Social Services for the purpose of locating persons who owe child support  
825 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the  
826 name, address, demographics and social security number of the data subject shall be released;

827 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
828 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
829 purpose of determining if any applicant who accepts employment in any direct care position or requests  
830 approval as a sponsored residential service provider or permission to enter into a shared living  
831 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
832 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
833 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and  
834 37.2-607;

835 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
836 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
837 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46. Other entities as otherwise provided by law.

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

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

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

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

F. Criminal history information provided to licensed assisted living facilities and licensed adult day

920 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange  
921 for any offense specified in § 63.2-1720.

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

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

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

936 **§ 37.2-304. Duties of Commissioner.**

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

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

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

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

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

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

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

957 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,  
958 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical  
959 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities  
960 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to  
961 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the  
962 Department within 15 working days of the critical incident, serious injury, or death.

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

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

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

979 11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to  
980 § 37.2-312.2.

981 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 Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

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

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

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

A. As used in this section, "problem gambling" means the combination of conditions affecting individuals experiencing an urge to gamble continuously despite harmful negative consequences or a desire to stop, including (i) individuals who meet the clinical definition for gambling addiction and (ii) individuals who meet one or more of the criteria for gambling disorder.

B. The Commissioner shall contract with a public institution of higher education or a private consultant to conduct an ongoing evaluation of the effectiveness of state programs designed to prevent and treat problem gambling. Such evaluation shall be conducted at least every two years.

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

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

"Director" means the Director of the Virginia Lottery.

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

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

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

A. The Board shall consist of ~~five~~ seven members, all of whom shall be citizens and residents of this Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Of the members, (i) at least one shall be a law-enforcement officer, (ii) at least one shall be a certified public accountant authorized to practice in the Commonwealth, and (iii) at least one shall be an attorney licensed to practice law 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.

1043 B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be  
1044 filled for the unexpired term in the same manner as the original term.

1045 C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be  
1046 subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the  
1047 performance of their official duties.

1048 D. Before entering upon the discharge of their duties, the members of the Board shall take an oath  
1049 that they will faithfully and honestly execute the duties of the office during their continuance therein and  
1050 they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful  
1051 discharge of their duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

1052 E. No member of the Board shall:

1053 1. Have any direct or indirect financial, ownership, or management interest in any gaming activities,  
1054 including any charitable gaming, pari-mutuel wagering, or lottery.

1055 2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities,  
1056 including any charitable gaming, pari-mutuel wagering, or lottery.

1057 3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of  
1058 any gaming activity, or the provision of independent consulting services in connection with any gaming  
1059 establishment or gaming activity.

1060 **§ 58.1-4006. Powers of the Director.**

1061 A. The Director shall supervise and administer ~~the~~:

1062 1. The operation of the lottery in accordance with the provisions of this chapter and with the rules  
1063 and regulations promulgated hereunder; and

1064 2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).

1065 B. The Director shall also:

1066 1. Employ such deputy directors, professional, technical and clerical assistants, and other employees  
1067 as may be required to carry out the functions and duties of the Department.

1068 2. Act as secretary and executive officer of the Board.

1069 3. Require bond or other surety satisfactory to the Director from licensed agents as provided in  
1070 subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery  
1071 funds, in such amount as provided in the rules and regulations of the Board. The Director may also  
1072 require bond from other employees as he deems necessary.

1073 4. Confer regularly, but not less than four times each year, with the Board on the operation and  
1074 administration of the lottery *and the regulation of casino gaming*; make available for inspection by the  
1075 Board, upon request, all books, records, files, and other information and documents of the Department;  
1076 and advise the Board and recommend such matters as he deems necessary and advisable to improve the  
1077 operation and administration of the lottery *and the regulation of casino gaming*.

1078 5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and  
1079 regulations adopted hereunder.

1080 6. *Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41*  
1081 *(§ 58.1-4100 et seq.).*

1082 7. *Eject or exclude from a casino gaming establishment any person, whether or not he possesses a*  
1083 *license or permit, whose conduct or reputation is such that his presence may, in the opinion of the*  
1084 *Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly*  
1085 *gaming operations.*

1086 8. *Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter*  
1087 *41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for*  
1088 *appropriate action.*

1089 9. *Inspect and investigate, and have free access to, the offices, facilities, or other places of business*  
1090 *of any licensee or permit holder and may compel the production of any of the books, documents,*  
1091 *records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with*  
1092 *Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.*

1093 10. *Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to*  
1094 *file with the Department such information as shall appear to the Director to be necessary for the*  
1095 *performance of the Department's functions, including financial statements and information relative to*  
1096 *principals and all others with any pecuniary interest in such person.*

1097 11. *Enter into arrangements with any foreign or domestic governmental agency for the purposes of*  
1098 *exchanging information or performing any other act to better ensure the proper conduct of casino*  
1099 *gaming operations or the efficient conduct of the Director's duties.*

1100 12. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the  
1101 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the  
1102 Director shall not be assigned by the holder thereof except by specific approval of the Director.

1103 7. 13. Certify monthly to the State Comptroller and the Board a full and complete statement of  
1104 lottery revenues, prize disbursements and other expenses for the preceding month.

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

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

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

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

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

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

#### CHAPTER 41.

#### CASINO GAMING.

#### Article 1.

#### General Provisions.

#### § 58.1-4100. Definitions.

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

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

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

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

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

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

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

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

"Director" means the Director of the Virginia Lottery.

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

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

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

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

"Individual" means a natural person.

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

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

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

1166 "Principal" means any individual who solely or together with his immediate family members (i) owns  
1167 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a  
1168 licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities  
1169 or other ownership interests of such entity, and any person who manages a gaming operation on behalf  
1170 of a licensee.

1171 "Professional sports" means an athletic event involving at least two competing individuals who  
1172 receive compensation, in excess of their expenses, for participating in such event.

1173 "Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation,  
1174 stock, or other equity interest creates control of or voice in the management operations of an entity in  
1175 the manner of a security, then such interest shall be considered a security.

1176 "Sports betting" means placing wagers on professional sports and college sports.

1177 "Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming  
1178 equipment, devices, or supplies, or provides any management services, to a licensee.

1179 "Voluntary exclusion program" means a program established by the Board that allows individuals to  
1180 voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by  
1181 placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

1182 "Youth sports" means an athletic event (i) involving a participant under age 18 or (ii) in which at  
1183 least one participant is a team from a public or private elementary, middle, or secondary school,  
1184 regardless of where such school is located.

1185 **§ 58.1-4101. Regulation and control of casino gaming; limitation.**

1186 A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the  
1187 Commonwealth. The Board is vested with control of all casino gaming in the Commonwealth, with  
1188 authority to prescribe regulations and conditions under this chapter. The purposes of this chapter are to  
1189 assist economic development, promote tourism, and provide for the implementation of casino gaming  
1190 operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest,  
1191 or unprincipled practices.

1192 B. The conduct of casino gaming shall be limited to the qualified locations established in § 2.2-2550.  
1193 The Board shall be limited to the issuance of a single operator's license for each such qualified  
1194 location.

1195 C. The conduct of any casino gaming and entrance to such establishment is a privilege that may be  
1196 granted or denied by the Board or its duly authorized representatives in its discretion in order to  
1197 effectuate the purposes set forth in this chapter. Any proposed site for a casino gaming establishment  
1198 shall be privately owned property subject to the local land use and property taxation authority of the  
1199 qualified locality in which the casino gaming establishment is located.

1200 **§ 58.1-4102. Powers and duties of the Board; regulations.**

1201 The Board shall have the power and duty to:

1202 1. Issue permits and licenses under this chapter and supervise all gaming operations licensed under  
1203 the provisions of this chapter, including all persons conducting or participating in any gaming  
1204 operation. The Board shall employ such persons to be present during gaming operations as are  
1205 necessary to ensure that such gaming operations are conducted with order and the highest degree of  
1206 integrity.

1207 2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the  
1208 Commonwealth and all such other regulations it deems necessary and appropriate to further the  
1209 purposes of this chapter.

1210 3. Issue an operator's license only to a person who (i) has a proposal that has been evaluated and  
1211 awarded by the Casino Gaming Establishment Location Commission pursuant to Article 11 (§ 2.2-2544  
1212 et seq.) of Chapter 25 of Title 2.2 and (ii) meets the criteria of § 58.1-4111.

1213 4. Issue subpoenas for the attendance of witnesses before the Board, administer oaths, and compel  
1214 production of records or other documents and testimony of such witnesses whenever in the judgment of  
1215 the Board it is necessary to do so for the effectual discharge of its duties.

1216 5. Order such audits as it deems necessary and desirable.

1217 6. Provide for the withholding of the applicable amount of state and federal income tax of persons  
1218 claiming a prize or payoff for winning a game and establish the thresholds for such withholdings.

1219 **§ 58.1-4103. Voluntary exclusion program.**

1220 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program in  
1221 the Commonwealth.

1222 B. The regulations shall include the following provisions:

1223 1. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion  
1224 program agrees to be excluded from entering a casino gaming establishment.

1225 2. The name of an individual participating in the program shall be included on a list of individuals  
1226 excluded from all casino gaming establishments.

1227 3. Except as provided by rule of the Board, an individual who participates in the voluntary exclusion

program may not petition the Board for readmittance to any casino gaming establishment.

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

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

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

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

**§ 58.1-4105. Hearing and appeal.**

Any person aggrieved by a refusal of the Department to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a fine, or any other action of the Board may seek review of such action in accordance with Department regulations and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). 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 Board. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

**Article 2.**

**Licenses.**

**§ 58.1-4107. Operator's license required.**

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

B. A license issued under the provisions of this chapter shall not be transferrable.

**§ 58.1-4108. Application for operator's license; penalty.**

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

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

2. The name and address of each principal and of each person who has contracted to become a principal of the applicant, including providing management services with respect to any part of gaming operations; the nature and cost of such principal's interest; and the name and address of each person who has agreed to lend money to the applicant;

3. Such information as the Department considers appropriate regarding the character, background, and responsibility of the applicant and the principals, officers, and directors of the applicant;

4. A description of the casino gaming establishment in which such gaming operations are to be conducted and the city where such casino gaming establishment will be located. 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

1289 whether gaming operations at such location will be in furtherance of the purposes of this chapter;

1290 5. Such information relating to the financial responsibility of the applicant and the applicant's ability  
1291 to perform under its license as the Department considers appropriate;

1292 6. If any of the facilities necessary for the conduct of gaming operations are to be leased, the terms  
1293 of such lease;

1294 7. Evidence of compliance by the applicant with the economic development and land use plans and  
1295 design review criteria of the local governing body of the locality in which the casino gaming  
1296 establishment is proposed to be located, including certification that the project complies with all  
1297 applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2;

1298 8. A resolution adopted by the locality in which the casino gaming establishment is proposed to be  
1299 located affirming support for such application; and

1300 9. Any other information that the Department in its discretion considers appropriate.

1301 B. A nonrefundable application fee of \$50,000 shall be paid at the time of filing to defray the costs  
1302 associated with the background investigation conducted for the Department. If the reasonable costs of  
1303 the investigation exceed the application fee, the applicant shall pay the additional amount to the  
1304 Department. The Board may establish regulations calculating the reasonable costs to the Department in  
1305 performing its functions under this chapter and allocating such costs to the applicants for licensure at  
1306 the time of filing.

1307 C. Any application filed hereunder shall be verified by the oath or affirmation of the applicant. Any  
1308 person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

1309 D. The licensed operator shall be the person primarily responsible for the gaming operations under  
1310 his license and compliance of such operations with the provisions of this chapter.

1311 **§ 58.1-4109. Notice to local government body; local impact.**

1312 The Department shall notify the local governing body and the chief law-enforcement officer of the  
1313 locality where a proposed casino gaming establishment will be located within 15 days of the filing of  
1314 the application. Within 90 days of receipt of the notification from the Department, the local governing  
1315 body shall submit any comments it may have in writing on the proposed casino gaming establishment  
1316 and indicate whether the locality supports the proposition.

1317 **§ 58.1-4110. Issuance of operator's license.**

1318 A. The Department may issue an operator's license to a person only if it finds that:

1319 1. The applicant's proposal for the development and operation of a casino gaming establishment has  
1320 been evaluated and awarded by the Casino Gaming Establishment Location Commission pursuant to  
1321 Article 11 (§ 2.2-2544 et seq.) of Chapter 25 of Title 2.2.

1322 2. The applicant submits a plan for addressing responsible gaming issues, including the goals of the  
1323 plan, procedures, and deadlines for implementation of the plan.

1324 3. The casino gaming establishment the applicant proposes to use on a permanent basis is or will be  
1325 appropriate for gaming operations consistent with the purposes of this chapter;

1326 4. The locality where the casino gaming establishment will be located certifies that the proposed  
1327 project complies with all applicable land use ordinances pursuant to Chapter 22 (§ 15.2-2200 et seq.)  
1328 of Title 15.2;

1329 5. Any required local infrastructure or site improvements, including necessary sewerage, water,  
1330 drainage facilities, or traffic flow, are to be paid exclusively by the applicant without state or local  
1331 financial assistance.

1332 6. If the applicant is an entity, its securities are fully paid and, in the case of stock, nonassessable  
1333 and have been subscribed and will be paid for only in cash or property to the exclusion of past  
1334 services;

1335 7. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the  
1336 Virginia courts, and all nonresident principals have designated the Director as their agent for receipt of  
1337 process;

1338 8. If the applicant is an entity, it has the right to purchase at fair market value the securities of, and  
1339 require the resignation of, any person who is or becomes disqualified under subsection B;

1340 9. The applicant meets any other criteria established by this chapter and the Department's  
1341 regulations for the granting of an operator's license;

1342 10. The applicant is qualified to do business in Virginia or is subject to the jurisdiction of the courts  
1343 of the Commonwealth; and

1344 11. The applicant has not previously been denied a license pursuant to subsection B.

1345 B. The Department shall deny a license to an applicant if it finds that for any reason the issuance of  
1346 a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming  
1347 industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of  
1348 the applicant;

1349 1. Is or has been guilty of any illegal act, conduct, or practice in connection with gaming operations  
1350 in this or any other state or has been convicted of a felony;

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

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

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

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

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

C. The Department shall make a determination regarding whether to issue the operator's license within 60 days of the receipt of a completed application.

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

A. A license issued under this chapter shall be for the period set by the Department regulations, which shall be no less than 10 years, but shall be reviewed no less frequently than annually to determine compliance with this chapter and Department regulations. The Board shall establish by regulation the criteria and procedures for license renewal and for amending licenses to conform to changes in a licensee's gaming operations. Renewal shall not be unreasonably refused.

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

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

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

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

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

Within 90 days after the end of each fiscal year, the licensed operator shall transmit to the Board an audit or financial review of the financial transactions and condition of the licensee's total operations. All audits and financial reviews required by this section shall conform to Board regulations.

**Article 3.**

**Supplier's Permits.**

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

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

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

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

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

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

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

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

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

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

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

E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming operation or manages any operation, including a computerized network, of a casino gaming establishment shall first obtain a supplier's permit. A supplier shall furnish to the Department a list of all management services, equipment, devices, and supplies offered for sale or lease in connection with

the games authorized under this chapter. A supplier shall keep books and records for the furnishing of casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Department listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

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

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

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

**§ 58.1-4115. Denial of permit final.**

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

**Article 4.**

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

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

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

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

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

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

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

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

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

7. Other factors established by Department regulation.

B. Such action by the Director shall be final unless appealed in accordance with § 58.1-4105. Suspension or revocation of a license or permit for any violation shall not preclude criminal liability for such violation.

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

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

**Article 5.**

**Service Permits.**

**§ 58.1-4118. Service permit required.**

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



may be transferable upon approval of the Department.

**§ 58.1-4119. Application for service permit.**

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

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

**§ 58.1-4120. Consideration of service permit application.**

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

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

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

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

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

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

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

6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering, fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery, embezzlement, administration 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 6.**

**Conduct of Casino Gaming.**

**§ 58.1-4122. Conduct of casino gaming.**

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

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

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

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

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

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

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

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

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

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

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

#### Article 7.

##### Local Referendum.

##### **§ 58.1-4123. Local referendum required.**

A. The Department shall not grant any initial license to operate a gaming operation until a referendum approving the question is held in each qualified city in which such casino gaming operation is to be located.

B. The governing body of any city containing a qualified location as established by Article 11 (§ 2.2-2544 et seq.) of Chapter 25 of Title 2.2 shall petition the court, by resolution, asking that a referendum be held on the question of whether casino gaming be permitted within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

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

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

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

[ ] Yes

[ ] No"

In the blank shall be inserted the name of the city in which such election is held and the proposed location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

E. The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Board 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 8.

##### Taxation.

##### **§ 58.1-4124. Tax rate on adjusted gross receipts.**

A tax at the rate of 27 percent is imposed on the adjusted gross receipts of each licensed operator received from games authorized under this chapter. The taxes imposed by this section shall be paid by the licensed operator to the Department no later than the close of the business day following the day when the adjusted gross receipts were received and shall be accompanied by forms and returns prescribed by the Board. Revenues collected pursuant to this section shall be credited to the Gaming Proceeds Fund to be appropriated as set forth in § 58.1-4125. The Department may suspend or revoke the license of an operator for willful failure to submit the wagering tax payment or the return within the specified time.

**§ 58.1-4125. Gaming Proceeds Fund.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Proceeds Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to this chapter shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Revenues from the Fund shall be appropriated by the General Assembly as follows:

1. Eighty-nine percent paid to the general fund;
2. Ten percent shall be returned to the city in which they were collected on a pro rata basis; and
3. One percent shall be appropriated to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

**Article 9.**

**Prohibited Acts; Penalties.**

**§ 58.1-4126. Illegal operation; penalty.**

A. No person shall:

1. Operate casino gaming where wagering is used or to be used without a license issued by the Department.
2. Operate casino gaming where wagering is permitted other than in the manner specified by this chapter.
3. Offer, promise, or give anything of value or benefit to a person who is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Director, a Department employee, or a local governing body.
4. Solicit or knowingly accept a promise of anything of value or benefit while the person is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Director, a Department employee, or a local governing body.
5. Use or possess with the intent to use a device to assist in:
  - a. Projecting the outcome of a game;
  - b. Keeping track of the cards played;
  - c. Analyzing the probability of the occurrence of an event relating to a game; or
  - d. Analyzing the strategy for playing or betting to be used in a game except as permitted by Department regulation.
6. Cheat at gaming.
7. Manufacture, sell, or distribute any card, chip, dice, game, or device that is intended to be used to violate any provision of this chapter.
8. Alter or misrepresent the outcome of a game on which wagers have been made after the outcome is made sure but before it is revealed to the players.
9. Place a bet after acquiring knowledge, not available to all players, of the outcome of the game that is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome.
10. Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a game, with intent to defraud, without having made a wager contingent on winning the game or claim, collect, or take an amount of money or thing of value of greater value than the amount won.
11. Use counterfeit chips or tokens in a game.
12. Possess any key or device designed for the purpose of opening, entering, or affecting the operation of a game, drop box, or electronic or mechanical device connected with the game or for removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino

1658 gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's  
1659 employment.

1660 B. Any person convicted of a violation of this section is guilty of a Class 6 felony. In addition, any  
1661 person convicted of a violation of subsection A shall be barred for life from gaming operations under  
1662 the jurisdiction of the Board.

1663 **§ 58.1-4127. Fraudulent use of credential; penalty.**

1664 Any person other than the lawful holder thereof who has in his possession any credential, license, or  
1665 permit issued by the Department, or any person who has in his possession any forged or simulated  
1666 credential, license, or permit of the Department, and who uses such credential, license, or permit for the  
1667 purposes of misrepresentation, fraud, or touting, is guilty of a Class 4 felony.

1668 Any credential, license, or permit issued by the Department, if used by the holder thereof for a  
1669 purpose other than identification and in the performance of legitimate duties in a casino gaming  
1670 establishment, shall be automatically revoked.

1671 **§ 58.1-4128. Prohibition on persons under 21 years of age placing wagers and sports betting on**  
1672 **youth sports; penalty.**

1673 A. No person shall wager on or conduct any wagering on the outcome of a game pursuant to the  
1674 provisions of this chapter unless such person is 21 years of age or older. No person shall accept any  
1675 wager from a person under age 21.

1676 B. No person shall wager on or conduct any wagering on the outcome of a youth sports game. No  
1677 person shall accept any wager from a person on a youth sports game.

1678 C. Violation of this section is a Class 1 misdemeanor.

1679 **§ 58.1-4129. Conspiracies and attempts to commit violations; penalty.**

1680 A. Any person who conspires, confederates, or combines with another, either within or outside the  
1681 Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 6 felony.

1682 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal  
1683 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1684 **§ 58.1-4130. Civil penalties.**

1685 Any person who conducts a gaming operation without first obtaining a license to do so, or who  
1686 continues to conduct such games after revocation of his license, in addition to other penalties provided,  
1687 shall be subject to a civil penalty assessed by the Board equal to the amount of gross receipts derived  
1688 from wagering on games, whether unauthorized or authorized, conducted on the day as well as  
1689 confiscation and forfeiture of all casino gaming equipment, devices, and supplies used in the conduct of  
1690 unauthorized games. Any civil penalties collected pursuant to this section shall be payable to the State  
1691 Treasurer for deposit to the general fund.

1692 **§ 59.1-364. Control of racing with pari-mutuel wagering.**

1693 A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the  
1694 Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent  
1695 with the health, safety and welfare of the people. The Virginia Racing Commission is vested with  
1696 control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to  
1697 prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to  
1698 maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent,  
1699 dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The  
1700 Virginia Racing Commission shall encourage participation by local individuals and businesses in those  
1701 activities associated with horse racing.

1702 B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or  
1703 wagering and entrance to any place where such racing or wagering is conducted is a privilege which  
1704 may be granted or denied by the Commission or its duly authorized representatives in its discretion in  
1705 order to effectuate the purposes set forth in this chapter.

1706 C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility  
1707 licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview  
1708 of § 11-14.

1709 D. This section shall not apply to any sports betting or related activity that is lawful under Chapter  
1710 41 (§ 58.1-4100 et seq.) of Title 58.1.

1711 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
1712 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
1713 necessary appropriation cannot be determined for periods of imprisonment in state adult  
1714 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia  
1715 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to  
1716 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be  
1717 determined for periods of commitment to the custody of the Department of Juvenile Justice.

1718 3. That the Virginia Racing Commission shall not authorize any additional satellite facilities as  
1719 defined in § 59.1-365 of the Code of Virginia during a period of five years after the effective date

1720 of this act.

1721 4. That the Department of Behavioral Health and Developmental Services and the Lottery Board  
1722 shall establish an ongoing stakeholder group to enable collaboration among problem gambling  
1723 prevention and treatment providers and casino gaming operators.

1724 5. That the Lottery Board shall promulgate regulations to implement the provisions of this act to  
1725 be effective within 280 days of its enactment.

**INTRODUCED**

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