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HOUSE BILL NO. 1966

Offered January 13, 2021

Prefiled January 11, 2021

A BILL to amend and reenact § 58.1-4032 of the Code of Virginia, relating to sports betting; mandatory permit issuance to certain casino operators.

Patrons—Bagby, Bourne and Carr

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-4032 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of \$50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating such costs to the applicants for licensure at the time of filing.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure that no prohibited or voluntarily excluded person will be able to participate in sports betting;

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. If applicable, any supporting documentation necessary to establish eligibility for substantial and preferred consideration pursuant to the provisions of this section;

6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity; and

7. Any other information the Director deems necessary.

C. The Department shall conduct a background investigation on the applicant. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. 1. The Director shall not issue any permit pursuant to this article until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to the provisions of subdivision A 14 of § 58.1-4007.

2. a. The Director shall issue no fewer than four permits pursuant to this section; however, if an insufficient number of applicants apply for the Director to satisfy such minimum, this provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A permit shall not count toward this minimum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 or 7 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires, or otherwise becomes not effective.

b. The Director shall issue no more than 12 permits pursuant to this section. A permit shall not count toward this maximum if it (i) is issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 7; or (iii) is revoked, expires, or otherwise becomes not effective.

3. In issuing permits to operate sports betting platforms, the Director shall consider the following factors:

a. The contents of the applicant's application as required by subsection B;

b. The extent to which the applicant demonstrates past experience, financial viability, compliance with applicable laws and regulations, and success with sports betting operations in other states;

c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 58.1-4034;

d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith

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59 efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined  
60 in § 2.2-1604;

61 e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected to  
62 generate;

63 f. The effect of issuing an additional permit on the amount of gross revenue and associated tax  
64 revenue generated by all existing permit holders, considered in the aggregate; and

65 g. Any other factor the Director considers relevant.

66 4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give  
67 substantial and preferred consideration to any applicant that is a major league sports franchise  
68 headquartered in the Commonwealth that remitted personal state income tax withholdings based on  
69 taxable wages in the Commonwealth in excess of \$200 million for the 2019 taxable year. Any permit  
70 holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration  
71 of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033;  
72 however, such permit holder shall not receive substantial and preferred consideration of its fourth and  
73 subsequent applications for renewal. Any permit granted pursuant to this subdivision shall expire if the  
74 permit holder ceases to maintain its headquarters in the Commonwealth.

75 5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall give  
76 substantial and preferred consideration to any applicant that is a major league sports franchise that plays  
77 five or more regular season games per year at a facility in the Commonwealth or that is the operator of  
78 a facility in the Commonwealth where a major league sports franchise plays five or more regular season  
79 games per year; however, the Director shall give such substantial and preferred consideration only if the  
80 applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in  
81 the Commonwealth that is in excess of \$10 million over the 90-day period prior to the application date,  
82 and (iii) the total number of individuals working at the facility in the Commonwealth where the major  
83 league sports franchise plays five or more regular season games is in excess of 100.

84 6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to  
85 operate sports betting platforms, the Director shall give substantial and preferred consideration to any  
86 applicant that (i) has made or intends to make a capital investment of at least \$250 million in a casino  
87 gaming establishment, including the value of the real property upon which such establishment is located  
88 and all furnishings, fixtures, and other improvements; (ii) has had its name submitted as a preferred  
89 casino gaming operator to the Department by an eligible host city; and (iii) has been certified by the  
90 Department to proceed to a local referendum on whether casino gaming will be allowed in the locality  
91 in which the applicant intends to operate a casino gaming establishment.

92 7. *The Director shall issue a permit to any applicant that (i) has made or intends to make a capital*  
93 *investment of at least \$250 million in a casino gaming establishment, including the value of the real*  
94 *property upon which such establishment is located and all furnishings, fixtures, and other improvements;*  
95 *(ii) has had its name submitted as a preferred casino gaming operator to the Department by a locality*  
96 *that meets the criteria of subdivision A 5 of § 58.1-4107; (iii) does not already have a permit issued by*  
97 *the Director; and (iv) has been certified by the Department to proceed to a local referendum on whether*  
98 *casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming*  
99 *establishment. Prior to the issuance of such permit, such applicant shall provide to the Department all*  
100 *information and satisfy all legal requirements otherwise required of any applicant. After the issuance of*  
101 *such permit, the Department shall have authority to suspend or revoke such permit and exercise all*  
102 *other powers with respect to such permit holder as are provided by this chapter.*

103 ~~7.~~ 8. In a manner as may be required by Board regulation, any entity that applies pursuant to  
104 subdivision D 4, D 5, or D 6 may demonstrate compliance with the requirements of an application, the  
105 duties of a permit holder, and any other provision of this article through the use of a partner,  
106 subcontractor, or other affiliate of the applicant.

107 E. The Director shall make a determination on an initial application for a sports betting permit within  
108 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

109 F. The following shall be grounds for denial of a permit or renewal of a permit:

110 1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit  
111 holder as described in subsection A of § 58.1-4034;

112 2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or  
113 integrity;

114 3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or  
115 associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports  
116 betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

117 4. The applicant or its directors knowingly make a false statement of material fact or deliberately fail  
118 to disclose information requested by the Director;

119 5. The applicant or its directors knowingly fail to comply with the provisions of this article or any  
120 requirements of the Director;

121 6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any  
122 criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date  
123 of the permit application;

124 7. The applicant's license, registration, or permit to conduct a sports betting operation issued by any  
125 other jurisdiction has been suspended or revoked;

126 8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

127 9. The applicant's application is incomplete.

128 G. The Director shall have the discretion to waive any of the grounds for denial of a permit or  
129 renewal of a permit if he determines that denial would limit the number of applicants or permit holders  
130 in a manner contrary to the best interests of the Commonwealth.

131 H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company  
132 entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the  
133 regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to  
134 the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable  
135 amount.

136 I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or  
137 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any  
138 application pursuant to this article is guilty of a Class 1 misdemeanor.

139 J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Department  
140 issues a permit shall pay a nonrefundable fee of \$250,000 to the Department prior to the issuance of  
141 such permit.

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