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SENATE BILL NO. 689

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 24, 2024)

(Patron Prior to Substitute—Senator Craig)

A *BILL to amend and reenact §§ 58.1-4100, 58.1-4101, 58.1-4102, and 58.1-4107 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 41 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-4142 and 58.1-4143, relating to casino gaming; cruise ships.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4100, 58.1-4101, 58.1-4102, and 58.1-4107 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 41 of Title 58.1 an article numbered 12, consisting of sections numbered 58.1-4142 and 58.1-4143, as follows:

§ 58.1-4100. Definitions.

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

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

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

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, Mah Jongg, electronic table games, hybrid table games, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs, or any variation of the aforementioned games, and any other activity that is authorized by the Board as a wagering game or device under this chapter. "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Casino gaming establishment" means the premises, including the entire property located at the address of the licensed casino, upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a *cruise ship*, riverboat, or similar vessel.

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

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

"Counter check" means an interest-free negotiable instrument for a specified amount executed by a player and held by the casino that serves as evidence of the casino gaming patron's obligation to pay the casino and that can be exchanged by the casino gaming patron for the specified amount in chips, tokens, credits, electronic credits, electronic cash, or electronic cards.

"*Cruise ship*" means a ship weighing more than 50,000 gross tons that operates at least 300 days per year anywhere in the world and (i) provides cruises of at least 72 hours in length for ticketed passengers and overnight accommodations for at least 2,000 passengers, (ii) is operated by a cruise ship operator, and (iii) is certified under the International Convention for the Safety of Life at Sea or otherwise certified by the United States Coast Guard.

"*Cruise ship operator*" means an entity that operates a cruise ship.

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

"Director" means the Director of the Virginia Lottery.

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

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

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

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, electronic credits, electronic cash, or electronic cards by casino gaming patrons. "Gross receipts" shall not include the cash value of promotions or credits provided to and exchanged by casino gaming patrons for chips, tokens, electronic credits, electronic cash, or electronic cards. "Gross receipts" shall also not include uncollectable counter checks.

"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.

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

61 "*Offshore waters of the Commonwealth*" means the marine water over which the Commonwealth has
62 jurisdiction, including rivers, bays, inlets, and other bodies of water.

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

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

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

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

75 "Prepaid access instrument" means a system device that allows a casino gaming patron access to
76 funds that have been paid in advance and can be retrieved or transferred at some point in the future
77 through such a device. In order to transfer funds for gaming purposes, a prepaid access instrument shall
78 be redeemed for tokens, chips, credits, electronic credits, electronic cash, electronic cards, or used in
79 conjunction with an approved cashless wagering system or interactive gaming account.

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

85 "Professional sports" means the same as such term is defined in § 58.1-4030.

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

89 "Sports betting" means the same as such term is defined in § 58.1-4030.

90 "Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment
91 licensed pursuant to this chapter that is designated for sports betting.

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

94 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103
95 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
96 subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the
97 procedures set forth by the Board.

98 "Youth sports" means the same as such term is defined in § 58.1-4030.

99 **§ 58.1-4101. Regulation and control of casino gaming; limitation.**

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

106 B. The conduct of casino gaming shall be limited to the qualified locations established in
107 § 58.1-4107 and *cruise ships permitted pursuant to Article 12 (§ 58.1-4142 et seq.)*. The Board shall be
108 limited to the issuance of a single operator's license or permit for each such qualified location or *cruise*
109 *ship, respectively*.

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

115 **§ 58.1-4102. Powers and duties of the Board; regulations.**

116 The Board shall have the power and duty to:

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

121 2. Adopt regulations regarding the conditions under which casino gaming shall be conducted in the

Commonwealth and all such other regulations it deems necessary and appropriate to further the purposes of this chapter.

3. *Adopt regulations regarding the conditions under which cruise ship casino gaming shall be conducted in the offshore waters of the Commonwealth.*

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

5. *Issue a permit to conduct cruise ship casino gaming only to a cruise ship operator that meets the criteria of § 58.1-4142.*

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

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

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

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

A. *The Except as provided in Article 12 (§ 58.1-4142 et seq.), the*conduct of casino gaming shall be limited to the following eligible host cities:

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

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

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

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

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

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

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

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

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

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

5. Security plans for the proposed casino gaming establishment.

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

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

8. The best financial interest of the city.

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

C. The Department shall, upon request of any eligible host city, provide a list of resources that may

be of assistance in evaluating the technical merits of any proposal submitted pursuant to this section, provided that selection of the preferred casino gaming operator shall be at the city's sole discretion.

D. The eligible host city described in subdivision A 4 shall provide substantial and preferred consideration to a proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the Assistant Secretary-Indian Affairs for the U.S. Department of the Interior 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.).

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

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

Article 12.

Cruise Ship Casino Gaming.

§ 58.1-4142. Cruise ship operator's permit required; conduct of cruise ship casino gaming.

A. A cruise ship operator shall submit an application to the Department for a permit before conducting cruise ship casino gaming in the offshore waters of the Commonwealth. Any cruise ship operator that receives a permit pursuant to this section shall ensure that:

1. The cruise ship does not conduct casino gaming at, or within one mile of, a location in the Commonwealth that serves as a port for the cruise ship or other point of anchorage in the waters of the Commonwealth used by the cruise ship for embarkation or disembarkation;

2. The casino gaming is ancillary to the cruise and the cruise has as its main purpose scenic cruising and port visits;

3. Casino gaming activities are limited to passengers 21 years of age or older; and

4. The cruise ship has at least one stop in a foreign country as part of its itinerary.

B. The Board shall develop regulations to implement the provisions of this article. Such regulations shall grant the Board the authority to revoke any permit granted pursuant to this section if it determines that a permitted cruise ship operator has become ineligible to hold a permit under this section, has provided false information in an application for a permit, or has conducted casino gaming in violation of the provisions of this chapter or has violated any regulation promulgated by the Board pursuant to this chapter. The Board may permanently bar a cruise ship operator that has had its permit revoked from applying for a permit to conduct cruise ship casino gaming in the future.

§ 58.1-4143. Fees for cruise ship casino gaming permits.

A. Any cruise ship operator seeking a permit to conduct cruise ship casino gaming in the offshore waters of the Commonwealth shall pay an annual fee to the Department for each cruise ship on which casino gaming will occur.

B. The annual permit fee shall be \$50,000 for any cruise ship that uses a port or other point of anchorage in the offshore waters of the Commonwealth for the purpose of embarkation or disembarkation of cruise ship passengers.

C. The annual permit fee shall be \$125,000 for any cruise ship that transits the offshore waters of the Commonwealth without making a stop in the Commonwealth and that conducts casino gaming activities while in such waters.

D. Any fees collected by the Department pursuant to this section shall be used by the Department to cover its reasonable expenses incurred in permitting cruise ship casino gaming. Any excess funds shall be distributed by the Department on a quarterly basis to the School Construction Fund, established

245 *pursuant to § 22.1-140.1.*