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SENATE BILL NO. 6004

Offered June 15, 2024

A BILL to amend and reenact §§ 18.2-325, 18.2-331.1, 18.2-334, 18.2-513, 22.1-140.1, 37.2-314.2, 58.1-4015.1, and 58.1-4048 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-331.2, 18.2-331.3, 18.2-331.4, and 18.2-334.7, by adding in Title 58.1 a chapter numbered 42, containing articles numbered 1 through 5, consisting of sections numbered 58.1-4200 through 58.1-4226, and by adding in Title 59.1 a chapter numbered 57, consisting of a section numbered 59.1-603, relating to Gaming Commerce Regulation in the Commonwealth Act established; penalties.

Patrons—Craig and Diggs

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-325, 18.2-331.1, 18.2-334, 18.2-513, 22.1-140.1, 37.2-314.2, 58.1-4015.1, and 58.1-4048 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-331.2, 18.2-331.3, 18.2-331.4, and 18.2-334.7, by adding in Title 58.1 a chapter numbered 42, containing articles numbered 1 through 5, consisting of sections numbered 58.1-4200 through 58.1-4226, and by adding in Title 59.1 a chapter numbered 57, consisting of a section numbered 59.1-603, as follows:

§ 18.2-325. Definitions.

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

"Electronic gaming device" means the same as that term is defined in § 58.1-4200.

"Gambling device" includes:

1. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, that are actually used in an illegal gambling operation or activity; and

2. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including those dependent upon the insertion of a coin or other object for their operation, that operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled, provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subdivision, and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color shall not be deemed gambling devices within the meaning of this subdivision.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less gambling devices because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

"Gambling device" does not include an electronic gaming device authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

"Host location" means the same as that term is defined in § 58.1-4200.

"Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision definition and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 ~~b~~, 2 of the definition of "gambling device," regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

~~"Illegal gambling" also means the playing or offering for play of any skill game.~~

2- "Illegal gambling" does not include the playing or offering for play of any electronic gaming device authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

"Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.

7. "Unregistered electronic gaming device" means any electronic gaming device that does not conspicuously display on the face of the electronic gaming device a required registration label pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1. Any electronic gaming device without such a registration label displayed may be inferred, subject to rebuttal, to be unregistered.

"Unregulated location" means any location that is not fully or partially regulated or operated by the Virginia Lottery or the Virginia Lottery Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-331.1. Operation of electronic gaming devices and gambling devices at unregulated locations; civil penalty.

A. In addition to any other penalty provided by law, any person who conducts, finances, manages, supervises, directs, sells, or owns an *electronic gaming device* or a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000 for each *electronic gaming device* or gambling device located in such unregulated location.

B. The Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to immediately enjoin the operation of an *electronic gaming device* or a gambling device in violation of this section and to request an attachment against all such devices and any moneys within such devices pursuant to Chapter 20 (§ 8.01-533 et seq.) of Title 8.01, and to recover the civil penalty of up to \$25,000 per device.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth, or the attorney for the locality may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and attorney fees.

D. Any civil penalties assessed under this section in an action in equity brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties assessed under this section in an action in equity brought in the name of a locality shall be paid into the general fund of the locality.

§ 18.2-331.2. Operating, placing, or possessing an electronic gaming device in an unregulated location; penalty.

A. It is unlawful for any person to operate, place, or possess an *electronic gaming device* in any unregulated location.

B. Any *electronic gaming device* operated, placed, or possessed in an unregulated location may be inferred, subject to rebuttal, to be in violation of this section and is subject to immediate seizure by law enforcement and may be forfeited to the Commonwealth in accordance with the procedures contained in

Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

C. Any person violating this section is guilty of a Class 1 misdemeanor.

D. Any person who is convicted of a third or subsequent offense under this section, and it is alleged in the warrant, indictment, or information that such person has been before convicted of two or more offenses under this section and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, is guilty of a Class 6 felony.

E. Any person who is convicted of a felony offense under this section shall have his electronic gaming device license suspended for a period of two years. Any person who is convicted of a second felony offense under this section shall have his electronic gaming device license suspended for a period of 10 years, and any person who is convicted of a third or subsequent felony offense shall have his electronic gaming device license permanently suspended. The court shall order the suspension of such license upon conviction.

§ 18.2-331.3. Operating, possessing, or placing any unregistered electronic gaming device in any location; penalty.

A. It is unlawful for any person to offer for play in any location any unregistered electronic gaming device

B. Any electronic gaming device without a registration label displayed as required by Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 may be inferred, subject to rebuttal, to be in violation of this section and is subject to immediate seizure by law enforcement and may be forfeited to the Commonwealth in accordance with the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

C. Any person violating this section is guilty of a Class 1 misdemeanor.

D. Any person who is convicted of a third or subsequent offense under this section, and it is alleged in the warrant, indictment, or information that such person has been before convicted of two or more offenses under this section and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, is guilty of a Class 6 felony.

E. Any person who is convicted of a felony offense under this section shall have his electronic gaming device license suspended for a period of two years. Any person who is convicted of a second felony offense under this section shall have his electronic gaming device license suspended for a period of 10 years, and any person who is convicted of a third or subsequent felony offense shall have his electronic gaming device license permanently suspended. The court shall order the suspension of such license upon conviction.

§ 18.2-331.4. Offering for play electronic gaming devices in excess of the statutory limits; penalty.

A. It is unlawful for any person to offer for play, in a single location, an electronic gaming device that is in excess of the licensing requirements or statutory limits proscribed in Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 regardless of whether such electronic gaming device is properly registered.

An electronic gaming device may be relocated from one location to another location or warehoused and subsequently placed in a host location provided that the number of electronic gaming devices offered for play in a single proscribed location does not exceed the licensing requirements or statutory limits for the number of games that may be offered for play at that location.

B. Any electronic gaming devices, whether registered or not, that are operating in excess of such licensing requirements or statutory limits are subject to immediate seizure and may be forfeited to the Commonwealth in accordance with the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

C. Any person violating this section is guilty of a Class 1 misdemeanor.

D. Any person who is convicted of a third or subsequent offense under this section, and it is alleged in the warrant, indictment, or information that such person has been before convicted of two or more offenses under this section and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, is guilty of a Class 6 felony.

E. Any person who is convicted of a felony offense under this section shall have his electronic gaming device license suspended for a period of two years. Any person who is convicted of a second felony offense under this section shall have his electronic gaming device license suspended for a period of 10 years, and any person who is convicted of a third or subsequent felony offense shall have his electronic gaming device license permanently suspended. The court shall order the suspension of such license upon conviction.

§ 18.2-334. Exception to article; private residences.

Nothing in this article shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided that such private residence is not commonly used for such games of chance and there is no operator as defined in subsection 4 of § 18.2-325.

§ 18.2-334.7. Exemptions to article; electronic gaming devices.

Nothing in this article shall be construed to make it illegal to play any electronic gaming device or conduct any related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

§ 18.2-513. Definitions.

As used in this chapter:

"Criminal street gang" means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust,

181 criminal street gang, or other group of three or more individuals associated for the purpose of criminal
182 activity.

183 "Proceeds" means the same as that term is defined in § 18.2-246.2.

184 "Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce,
185 or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et
186 seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-
187 32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-
188 49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-
189 90, 18.2-91, 18.2-92, 18.2-93, 18.2-95, 18.2-96, or 18.2-103.1, Article 4 (§ 18.2-111 et seq.) of Chapter 5,
190 Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter
191 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, §
192 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-331.2, 18.2-331.3, 18.2-
193 331.4, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1,
194 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1 (§ 18.2-434 et seq.)
195 of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10,
196 Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or
197 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia,
198 or the United States or its territories.

199 **§ 22.1-140.1. School Construction and Modernization Fund and Program.**

200 A. There is hereby created in the state treasury a special nonreverting fund to be known as the School
201 Construction and Modernization Fund, referred to in this section as "*the Fund*." The Fund shall be
202 established on the books of the Comptroller. All funds appropriated for such purpose, including funds
203 appropriated pursuant to subdivision B 5 of § 58.1-4125, and any gifts, donations, grants, bequests, and other
204 funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on
205 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
206 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
207 the Fund. Moneys in the Fund shall be used solely for the purposes of awarding grants pursuant to the School
208 Construction and Modernization Program established in subsection B. Expenditures and disbursements from
209 the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
210 signed by the president of the Board.

211 B. There is hereby established the School Construction and Modernization Program (the Program) for the
212 purpose of awarding grants from the Fund to local school boards to fund the construction of new public
213 school buildings or the renovation or expansion of existing public school buildings, *including the roofs of*
214 *such buildings*, in the local school division. The Program shall be administered by the Board in accordance
215 with criteria and other requirements set forth in the general appropriation act.

216 **§ 37.2-314.2. Problem Gambling Treatment and Support Fund.**

217 A. As used in this section:

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

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

225 B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem
226 Gambling Treatment and Support Fund, referred to in this section as "*the Fund*." The Fund shall be
227 established on the books of the Comptroller. All revenue accruing to the Fund pursuant to subsection A of §
228 58.1-4038, *moneys required to be deposited into the Fund pursuant to subsection B of § 59.1-603*, and
229 moneys required to be deposited into the Fund pursuant to Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 shall
230 be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in
231 the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of
232 each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be
233 used solely for the purposes of (i) providing counseling and other support services for compulsive and
234 problem gamblers, (ii) developing and implementing compulsive and problem gambling treatment and
235 prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive
236 and problem gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer
237 on warrants issued by the Comptroller upon written request signed by the Commissioner.

238 **§ 58.1-4015.1. Voluntary exclusion program.**

239 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

240 B. The regulations shall include the following provisions:

241 1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion

program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of this article; (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging in any form of casino gaming that may be allowed under the laws of the Commonwealth; (iv) *playing any electronic gaming device authorized pursuant to Chapter 42 (§ 58.1-4200 et seq.)*; (v) participating in charitable gaming, as defined in § 18.2-340.16; ~~(v)~~ (vi) participating in fantasy contests, as defined in § 59.1-556; or ~~(vi)~~ (vii) wagering on horse racing, as defined in § 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Department limited to sales agents and permit holders, as defined in § 58.1-4030, and any other parties the Department deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

5. Sales agents and permit holders shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude sales agents and permit holders from seeking the payment of a debt incurred by a person before entering the program. In addition, a permit holder may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

§ 58.1-4048. Gaming Regulatory Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to offset the Department's costs associated with (i) the conduct of investigations required by § 58.1-4032, 58.1-4043, 58.1-4104, 58.1-4109, 58.1-4116, 58.1-4120, or 58.1-4121 or any other provision of this article ~~or~~, Chapter 41 (§ 58.1-4100 et seq.), *or Chapter 42 (§ 58.1-4200 et seq.)* and (ii) the enforcement of regulations promulgated by the ~~Virginia Lottery~~ Board pursuant to subdivisions A 14 and 15 of § 58.1-4007, subdivision 2 of § 58.1-4102, and ~~§ §§ 58.1-4103, 58.1-4202, and 58.1-4204~~. 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 Director.

CHAPTER 42.

VIRGINIA GAMING COMMERCE REGULATION ACT OF 2024.

Article 1.

General Provisions.

§ 58.1-4200. Definitions.

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

"ABC retail location" means a business location for which a valid authority retail license has been issued to a business by the Virginia Alcoholic Beverage Control Authority or the Board of Directors of the Virginia Alcoholic Beverage Control Authority pursuant to Title 4.1.

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

"Category" means the type of license granted by the Department, to include a manufacturer, distributor, operator, or host location license.

"Commercial motor vehicle" means the same as that term is defined in § 46.2-341.4.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40 and the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40, casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to this chapter.

"Director" means the Director of the Virginia Lottery.

"Distributor" means any person registered with the Board that sells, leases, offers, or provides and distributes electronic gaming devices to an operator for use or play in the Commonwealth, and buys or leases electronic gaming devices from a manufacturer licensee. No distributor shall contract directly with a host location.

"Electronic gaming" means activity using an electronic gaming device as authorized under this chapter.

"Electronic gaming device" means a physical terminal, machine, or other device, including electronic or

computerized devices, that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which shall be determined by the predominant skill of the player, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game. "Electronic gaming device" does not include any amusement device, as defined in § 18.2-334.6, any mobile telephone device, charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, sports betting authorized under Article 2 (§ 58.1-4030 et seq.) of Chapter 40, casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.), or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

"Gaming tax" means the tax imposed on electronic gaming device.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes or cash winnings paid out to successful players.

"Host location" means a business establishment at which electronic gaming devices are placed, operated, and offered to the public for play in the gaming area by an operator licensee. "Host location" includes truck stops, as defined in this chapter, and any ABC retail location.

"Independent testing laboratory" means a laboratory selected by the Director with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this chapter and to otherwise perform the functions assigned to it by this chapter. No manufacturer, operator, distributor, or host location licensee shall have any ownership interest in any independent testing laboratory approved by the Director.

"Individual" means a natural person.

"Inducement" means anything of value offered, given, transferred, or paid, directly or indirectly, by a manufacturer, distributor, procurement agent, operator, or any employee, agent, contractor, or other person acting on behalf of any manufacturer, distributor, operator, or procurement agent to any host location licensee or any applicant for a host location license pursuant to this chapter, or to any employee, investor, owner, or officer of a host location licensee or applicant for a host location license as an enticement to solicit, enter into, grant, execute, renew, extend, or maintain a use agreement by and between a host location licensee and a distributor licensee, including any cash, incentive, marketing or advertising cost, gift, food, beverage, loan, financing arrangement, prepayment of gross revenue, or any other contribution payment that offsets a host location licensee's capital or operational costs, or as otherwise determined by the Board.

"Inducement" does not include costs paid by a distributor or operator licensee related to:

1. Costs for structural changes or modular materials or equipment used to meet minimum standards for the gaming area as required by the Board or to maintain the security of the gaming area, the electronic gaming devices, and ticket redemption terminals.

2. Surveillance equipment, alarm systems, and similar equipment or systems intended to monitor and secure the electronic gaming devices, the ticket redemption terminals, and the gaming area and the perimeter of the host location licensee's establishment, and any means of ingress and egress thereto.

3. Any wiring or rewiring of the gaming area necessary to operate electronic gaming devices, ticket redemption terminals, or ancillary equipment.

4. Any software updates to the electronic gaming devices or ticket redemption terminals or ongoing maintenance of electronic gaming devices, ticket redemption terminals, network connections, site controllers, chairs, tables, supports, or other ancillary equipment necessary to operate the electronic gaming devices and the ticket redemption terminals in the gaming area.

5. Any requirement established by the Board regarding minimum standards for the operation of electronic gaming devices, ticket redemption terminals, in whole or in part, by the distributor or operator licensee.

"Licensee" or "license holder" means any person holding a manufacturer, distributor, operator, or host location license pursuant to Article 2 (§ 58.1-4205 et seq.).

"Locality" means a county, city, or town, as those terms are defined in § 15.2-102.

"Lottery" means the lottery or lotteries established and operated pursuant to Chapter 40 (§ 58.1-4000 et seq.).

"Manufacturer" means any person that manufactures and sells or leases electronic gaming devices or software and hardware for electronic gaming devices to distributors.

"Operator" means a person registered with the Board to place or service electronic gaming devices at the premises of a host location by (i) purchasing or leasing electronic gaming devices from a licensed manufacturer or distributor; (ii) providing the placement, repair, maintenance, replacement, or removal of electronic gaming devices to host locations; (iii) maintaining and servicing such devices; and (iv) facilitating data collection and data and financial reporting as required by this chapter and as determined by the Board.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Player" means an individual who plays an electronic gaming device.

"Procurement agent" means a person licensed by the Board that acts as an agent, either as an employee or as an independent contractor of a manufacturer or manufacturers, distributor or distributors, operator or

operators, and shares in the gross profits, is paid a commission, or is otherwise compensated for the purpose of soliciting or procuring a use agreement among two or more licensees in different categories.

"Profits after taxes" means the gross profit minus the tax imposed upon all gross profits generated from the play of electronic gaming devices pursuant to §§ 58.1-4217 and 58.1-4218.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the Board in accordance with the authority conferred on it by applicable laws.

"Single play" means the period beginning when a player activates and pays for the interactive gameplay function of an electronic gaming device and ending at the time when the gameplay function or series of free subgames thereunder will not continue without payment by the player of additional consideration.

"Successful player" means an individual who wins a payout on one or more plays of an electronic gaming device.

"Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming device may be redeemed for cash or a cash equivalent.

"Truck stop" means an establishment that (i) is equipped with diesel fuel islands used for fueling commercial motor vehicles and has sold, on average, at least 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months, or is projected to sell an average of at least 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months; (ii) has a convenience store; (iii) is situated on not less than three acres of land that the establishment owns or leases; and (iv) has parking spaces dedicated to commercial motor vehicles.

"Use agreement" means a written agreement conforming to the regulations established by the Board and those minimum requirements set forth in this chapter among two or more licensees in different categories.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4204 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4204 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4201. Powers and duties of the Director related to electronic gaming devices; reporting.

A. The Director shall have the following powers and duties related to the regulation of electronic gaming devices:

1. Issue licenses under Article 2 (§ 58.1-4205 et seq.) and supervise all activities licensed under the provisions of this chapter, including the manufacture, distribution, operation, hosting, and playing of electronic gaming devices;

2. Suspend, revoke, or refuse to renew any license issued pursuant to Article 2 (§ 58.1-4205 et seq.) or the rules and regulations adopted pursuant to this chapter;

3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of any licensee and compel the production of any books, documents, records, or memoranda of any licensee for the purpose of satisfying himself that this chapter and Board regulations are strictly complied with;

4. Order such audits and inspections as deemed necessary;

5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic gaming device revenues for the previous month;

6. Assess and collect civil penalties for violations of this chapter and Board regulations;

7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total electronic gaming device revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of electronic gaming device revenues and expenses and a list of all licensees licensed pursuant to this chapter, to the Governor and the General Assembly, including recommendations for changes in this chapter as the Director and Board deem prudent;

8. Require training for host location licensees and the employees of any host location licensee as necessary on any topic the Director deems appropriate, including technical operations, security, problem gambling identification measures, and age verification procedures;

9. Establish monthly reporting requirements for each electronic gaming device on the amounts wagered and amounts awarded on the last 500 plays and the last 100 plays for each electronic gaming device; and

10. Do all acts necessary and advisable to carry out the purposes and provisions of this chapter.

B. Upon request by the assessing official of a locality, the Director shall provide to such assessing official of such locality a statement of the amount of the gaming tax collected in such locality pursuant to Article 4 (§ 58.1-4218 et seq.) from each electronic gaming device, from each host location, and from all electronic gaming devices and host locations in the aggregate.

§ 58.1-4202. Powers and duties of the Board related to electronic gaming devices.

In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate regulations related to electronic gaming devices that:

1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient for

425 the administration of this chapter;

426 2. Establish requirements for all licensees under this chapter for the form, content, and retention of all
427 records and accounts;

428 3. Establish procedures for the collection of all fees levied pursuant to this chapter and set due dates for
429 the payment of such fees;

430 4. Establish a process for the approval or disapproval of electronic gaming devices and games offered on
431 such devices;

432 5. Establish cash handling procedures for operator and host location licensees that require such licensees
433 to keep separate accounts for gaming and nongaming transactions;

434 6. Establish standard terms between licensees in different categories;

435 7. Establish rules and regulations that ensure transparency with respect to operational, transactional,
436 and financial information provided to licensees that allow such licensees to be able to verify appropriate
437 distributions of profits after taxes pursuant to the user agreement among any such licensees;

438 8. Establish rules and regulations to ensure public safety and protocols to deter criminal activity within
439 and around the host location's premises;

440 9. Promulgate regulations that establish limitations on excessive ATM fees for players in host locations;

441 10. Establish rules and regulations related to the level of substantial skill and the differential level of skill
442 that meets the definition of "electronic gaming device" in § 58.1-4200;

443 11. Establish rules and regulations for the licensing of procurement agents;

444 12. Establish a process for accepting license applications, including consideration of the aggregate cap
445 on the number of electronic gaming devices as well as regional diversity and population;

446 13. Require inspections of all licensees at a frequency determined by the Board;

447 14. Require appropriate surveillance equipment, alarm systems, or similar equipment or systems intended
448 to monitor and secure the gaming area and electronic gaming devices, ticket redemption terminals,
449 electronic identification terminals, and the perimeter of the host location licensee's establishment, and any
450 means of ingress and egress thereto;

451 15. Establish a program of periodic testing and inspection for all electronic gaming devices;

452 16. Prohibit licensees and their affiliates from advertising or marketing their products and services
453 related to electronic gaming devices to players or potential players. However, (i) licensees shall be allowed
454 to describe their products and services on a website operated and maintained by the licensee and (ii) host
455 location licensees shall be allowed to advertise on one sign located at the host location, provided that such
456 sign is no larger than three feet in height by three feet in width;

457 17. Require host location licensees to post at least one sign in a conspicuous location at the entrance of
458 any gaming area on the premises of its establishment. Such sign shall include (i) language that makes it clear
459 that only individuals 21 years of age or older may play an electronic gaming device; (ii) a toll-free telephone
460 number for problem gambling assistance that has been approved by the Virginia Council on Problem
461 Gambling or another organization that provides assistance to problem gamblers; and (iii) the toll-free
462 telephone number and website for the illegal gaming tip line established by the Office of the Gaming
463 Enforcement Coordinator in the Department of State Police for members of the public to report concerns
464 about, or suspected instances of, illegal gaming activities. The Board shall also distribute written guidance to
465 host location licensees that shall be used to educate host location employees on how to recognize intoxicated
466 individuals; and

467 18. Provide guidelines and recommendations necessary and advisable to carry out the purposes and
468 provisions of this chapter.

469 **§ 58.1-4203. Adoption of local ordinance or referendum to prohibit electronic gaming devices.**

470 A. For the purposes of this section, "locality" means any county or city. "Locality" does not include any
471 town.

472 B. The governing body of a locality may hold a referendum on the question of whether electronic gaming
473 devices shall be prohibited in the locality.

474 C. If a local ordinance to prohibit electronic gaming devices has been adopted by the locality, a
475 referendum with the opposite purpose may not be conducted for at least one calendar year from the effective
476 date of the ordinance.

477 D. A referendum may be called for either by resolution of the governing body of a locality or upon a
478 petition of qualified voters equal in number to at least 2.5 percent of the number registered in the jurisdiction
479 on January 1 preceding its filing or by at least 5,000 qualified voters in the jurisdiction, whichever is less.
480 Upon the filing of a petition or passage of a resolution by the local governing body, the court shall order the
481 election officials of the county or city on the date fixed in the order to conduct a referendum on the question.
482 The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in
483 the county, city, or town once a week for three consecutive weeks prior to the referendum.

484 The regular election officers of such locality shall open the polls at the various voting places in such
485 locality 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 locality and on which shall be printed the following question:

"Shall electronic gaming devices, also known as "skill games" be prohibited at lottery retailers or ABC retail locations, which may include convenience stores, gas stations, truck stops, and other locations in _____ (name of locality) as may be authorized by the Virginia Lottery?"

[] Yes

[] No"

In the blank shall be inserted the name of the locality in which such election is held. 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 such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

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

E. No license requirement, license fee, permit fee, sticker fee, or tax shall be imposed by any locality upon an electronic gaming device manufacturer, distributor, operator, or host location relating to the ownership, placement, use, or operation of electronic gaming devices or associated equipment.

§ 58.1-4204. Voluntary exclusion program.

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

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of Chapter 40 (§ 58.1-4000 et seq.) or 41 (§ 58.1-4100 et seq.); (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging in any form of casino gaming authorized under the provisions of Chapter 41 (§ 58.1-4100 et seq.); (iv) playing any electronic gaming device authorized under the provisions of this chapter; (v) participating in charitable gaming, as defined in § 18.2-340.16; (vi) participating in fantasy contests, as defined in § 59.1-556; or (vii) wagering on horse racing, as defined in § 59.1-365. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, except that dissemination of such information by the Department to the entity that manages its central accounting system established pursuant to § 58.1-4216 and any other parties the Department deems necessary for purposes of enforcement shall be allowed. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

Article 2.

Licenses and Requirements of Licensees.

§ 58.1-4205. Licenses that may be granted by the Director; fees.

A. The Director may grant the following four license categories of industry licenses:

1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to a distributor or operator licensee electronic gaming devices, software and hardware for electronic gaming devices, and all tools and components necessary for the operation, repair, and maintenance of any such electronic gaming device.

2. Distributor license, which shall authorize the licensee to (i) buy or lease electronic gaming devices from a manufacturer licensee and (ii) sell or lease such devices to operator licensees.

3. Operator license, which shall authorize the licensee to (i) place or service electronic gaming devices at host locations, (ii) buy or lease electronic gaming devices from a manufacturer or distributor licensee, (iii) provide electronic gaming devices to host location licensees, (iv) maintain and service such devices, and (v) facilitate the data requirements and data reporting as required by this chapter.

4. Host location license, which shall authorize the licensee to allow the placement and offering for play of electronic gaming devices at such licensee's establishment.

B. An applicant for a manufacturer, distributor, operator, or host location license shall submit an application to the Director on forms provided by the Director. All distributor, operator, and host location

547 applicants shall be required to submit a copy of a valid use agreement as a condition of continued licensure.
548 The Board shall have the discretion to determine which license category applies to an applicant and the
549 corresponding fees that apply to the applicant when such applicant meets the criteria for multiple licenses.
550 Each host location premises shall be separately licensed.

551 C. A nonrefundable fee of \$250,000 shall be paid by an applicant for a manufacturer license to the
552 Department upon issuance of such license, and annually thereafter as a condition of licensure renewal or
553 continued licensure.

554 A nonrefundable fee of \$250,000 shall be paid by an applicant for a distributor license to the Department
555 upon issuance of such license, and annually thereafter as a condition of licensure renewal or continued
556 licensure.

557 A nonrefundable fee of \$25,000 shall be paid by an applicant for an operator license to the Department
558 upon issuance of such license, and annually thereafter as a condition of licensure renewal or continued
559 licensure.

560 A nonrefundable fee of \$1,000 shall be paid by an applicant for a host location license that does not meet
561 the definition of a "truck stop" as defined in § 58.1-4200 to the Department upon issuance of such license,
562 and annually thereafter as a condition of licensure renewal or continued licensure.

563 A nonrefundable fee of \$2,500 shall be paid by an applicant for a host location license that meets the
564 definition of a "truck stop" as defined in § 58.1-4200 to the Department upon issuance of such license, and
565 annually thereafter as a condition of licensure renewal or continued licensure.

566 All fees collected by the Department pursuant to this subsection shall be deposited into the Gaming
567 Regulatory Fund established pursuant to § 58.1-4048.

568 **§ 58.1-4206. General licensing requirements; penalty.**

569 A. The Department, in conjunction with an approved outside vendor or accredited law-enforcement
570 agency, shall conduct a background investigation, including a criminal history records check and
571 fingerprinting, of the following individuals: (i) every individual applying for a license pursuant to this article;
572 (ii) every individual who is an officer, director, board member, owner of at least a 10 percent interest in any
573 licensee, or principal of a licensee or applicant for a license and any employee of the licensee, as determined
574 by the Board, who is directly involved with a licensee; (iii) all security personnel of any licensee; and (iv) any
575 individual conducting cash handling, maintenance, or service on any electronic gaming device. Each such
576 individual shall submit his fingerprints and personal descriptive information to the Central Criminal Records
577 Exchange to be forwarded to the Federal Bureau of Investigation for a national criminal records search and
578 to the Department of State Police for a Virginia criminal history records check. The results of the
579 background check and national and state criminal records check shall be returned to the Department. This
580 subsection shall not apply to employees of host location licensees.

581 B. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license
582 issued pursuant to this chapter to any person who has been (i) convicted of a crime involving moral
583 turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or
584 misrepresentation in any connection, or (iv) convicted of a felony.

585 C. The Director shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license
586 issued pursuant to this article to a partnership or corporation if he determines that any general or limited
587 partner, or officer or director of such partnership or corporation, has been (i) convicted of a crime involving
588 moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any
589 fraud or misrepresentation in any connection, or (iv) convicted of a felony.

590 D. The Director may also refuse to grant a license pursuant to this article if:

591 1. The Director reasonably believes that the applicant's prior activities, criminal record, or associations
592 are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of electronic gaming
593 devices, or (iii) promote unfair or illegal activities in the conduct of electronic gaming devices;

594 2. The applicant or any general or limited partner or any officer or director of such applicant knowingly
595 makes a false statement of material fact or deliberately fails to disclose information requested by the
596 Director;

597 3. The applicant or any general or limited partner or any officer or director of such applicant knowingly
598 fails to comply with the provisions of this chapter or any requirements of the Director;

599 4. The applicant's license to manufacture, distribute, operate, or offer to the public for play an electronic
600 gaming device issued by any other jurisdiction has been suspended or revoked; or

601 5. The applicant's application is incomplete.

602 E. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
603 knowingly or willfully makes a false, fictitious, or fraudulent statement or representation in any application
604 pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the license of a licensee
605 if, subsequent to the issuance of the license, the Director determines that the licensee knowingly or recklessly
606 made a false statement of material fact to the Director in applying for the license.

607 **§ 58.1-4207. Distributor and operator licensees.**

608 A. No distributor licensee shall own an electronic gaming device unless such device (i) is approved by the

Director, (ii) has been manufactured by a manufacturer licensee, and (iii) is purchased from a manufacturer licensee or distributor licensee. No contract between a distributor or operator licensee and a manufacturer licensee shall grant the distributor licensee exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming device or ticket redemption terminal in the Commonwealth.

B. No operator licensee shall place or maintain an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host location licensee and has an agreement with standard terms.

§ 58.1-4208. Host location licensees; civil penalty.

A. Only the following locations are eligible to receive a host location license:

1. Host locations that do not meet the definition of a "truck stop" licensed as an agent to sell lottery tickets or shares pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40;

2. Host locations that meet the definition of "truck stop" licensed as an agent to sell lottery tickets or shares pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40; and

3. Host locations that are ABC retail locations.

B. No more than three electronic gaming devices may be located in an establishment listed in subdivision A 1. No more than seven electronic gaming devices may be located in an establishment listed in subdivision A 2 or 3.

C. No host location licensee shall allow an electronic gaming device to be placed upon the premises of such licensee's establishment unless such device is owned or leased, placed, and maintained by an operator licensee. The primary business of a host location licensee shall not be the offering for play of electronic gaming devices.

D. No host location licensee shall use the term "casino" in its entity name, in any advertisement in association with its product or service, or in any manner prohibited by Board regulation. Any host location licensee that violates the provisions of this subsection shall be subject to a civil penalty established by the Board. The Director shall enforce the provisions of this subsection. All penalties collected pursuant to this subsection shall accrue to the Literary Fund.

E. In an effort to promote responsible gaming by players, host location licensees shall:

1. Affix to a clearly visible and conspicuous location on each electronic gaming device a label that bears a toll-free number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Provide informational leaflets or other similar materials in the gaming area on the dangers associated with problem gambling; and

3. Comply with, and require its employees to comply with, any applicable Board regulations, including regulations regarding player self-exclusion programs, player identification, and player age verification.

Nothing contained in this subsection shall be construed to create any cause of action against the Board or Department for the failure of a host location licensee to comply with the requirements of this section.

F. All host location licensees shall comply with the provisions of this chapter and regulations adopted by the Board.

§ 58.1-4209. License posting; expiration.

A. Each license granted by the Director shall designate the physical location where the business of the licensee will be carried out.

B. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries out the business for which the license is granted.

C. The privileges conferred by any initial license application approved by the Director shall continue until the last day of the twelfth month after the effective date of such license. Upon completion of the first year of licensure, licenses shall be renewed until the next June 30 based upon the payment of a prorated renewal fee. Annually thereafter, licenses shall be renewed on July 1 and include payment of the renewal fee. A license may be sooner terminated for any cause for which the Director would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Director.

D. The Director may grant licenses for one year.

E. Sixty days before the expiration of a license, the license holder may submit a renewal application on forms prescribed by the Board. The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4206.

§ 58.1-4210. Prohibition against the issuance of multiple licenses.

A. For purposes of this section, "interest" means the direct or indirect ownership of any equity ownership interest or a partial equity ownership interest or any other type of financial interest, including being an investor, shareholder, member, lender, or employee.

B. No licensee that has been issued a manufacturer license, distributor license, or operator license shall be issued a host location license or have any interest in a host location licensee.

C. No licensee that has been issued a manufacturer license, distributor license, or host location license shall be issued an operator license or have any interest in an operator licensee.

D. No licensee that has been issued a host location license shall be issued a manufacturer license or

distributor license or have any interest in a manufacturer licensee or distributor licensee.

E. A licensee that has been issued a manufacturer license may also be issued a distributor licensee or have an interest in a distributor licensee.

F. A licensee that has been issued a distributor license may also be issued a manufacturer license or have an interest in a manufacturer licensee.

G. Host location applicants with interest in multiple host locations shall submit a separate application for each individual host location premises.

§ 58.1-4211. Prohibition against transferring licenses or interests.

No licensee shall transfer its license or assign responsibility for compliance with the conditions of its license to any party, including a transfer of effective control of the licensee. No distributor licensee shall transfer any electronic gaming device or any interest in a use agreement.

§ 58.1-4212. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this chapter or any regulation or condition of the Board has not been complied with or has been violated by a licensee, he may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the licensee under a framework established by the Board and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Director shall state his reasons for doing so, which shall be entered of record. Any civil penalties collected pursuant to this section shall be paid into the state treasury and credited to the Literary Fund.

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

C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal liability for such violation.

§ 58.1-4213. Minimum requirements for use agreements among two or more categories of licensees; division of revenue.

A. The Board shall promulgate regulations determining the minimum requirements and terms for use agreements among licensees, including timelines for submitting use agreements to the Department.

B. A copy of the use agreement shall be maintained in the business office of both the operator and the host location and shall be available at all times for inspection by the Director. An operator shall file a copy of any such use agreement with the Director within 30 days after the execution of such agreement.

C. No person shall receive any portion of gross profits generated from electronic gaming devices located at a host location's premises except for the distributor, operator, and host location that are parties to the use agreement, except as approved by the Director in compliance with applicable rules and regulations adopted by the Board.

Article 3.

Authorization of Electronic Gaming Devices.

§ 58.1-4214. Approval of electronic gaming devices by the Director; minimum requirements.

A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless such electronic gaming device has first been approved by the Director. The Director shall not approve more than 30,000 electronic gaming devices in the aggregate, as measured by electronic gaming devices approved for host location licensees for operation at any one time in the Commonwealth, and such approvals shall be determined by the Board.

B. Before selling or otherwise providing an electronic gaming device to a distributor, a manufacturer shall provide a prototype or production sample of such electronic gaming device to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such electronic gaming device meets the definition of electronic gaming device under § 58.1-4200, the requirements of § 58.1-4215, and any other requirements established in Board regulations.

A prototype or production sample of each type, version, or model of electronic gaming device being operated in the Commonwealth shall be tested by an independent testing laboratory approved by the Director to ensure its integrity, level of skill required, and proper working order. This evaluation shall include a review of installed software periodically within a timeframe established by the Director.

The independent testing laboratory's software may be embedded within the game software, utilize an interface port to communicate with the device, or require the removal of device media for external verification.

C. Along with the prototype or production sample of the electronic gaming device, the manufacturer shall provide the following information concerning the electronic gaming device to the independent testing laboratory:

1. The available wagering denominations;
2. The minimum wager amount;
3. The maximum wager amount per play, which shall not exceed \$5;

4. The method of calculating winning payouts, including skill level achieved; and
 5. Payout calculations set forth in sufficient detail to audit a payout through manual calculation.
 D. The report of the independent testing laboratory shall be submitted by the manufacturer to the Director. The Director shall use the report in evaluating whether the electronic gaming device shall be approved under this chapter.

E. If at any time a manufacturer makes a substantive change to game play for any electronic gaming device that has previously been approved by the Director, such manufacturer shall resubmit the electronic gaming device to the Director in a manner prescribed by Board regulation.

F. The manufacturer licensee shall pay the cost of the independent testing laboratory's review and testing, and the reports of the same shall be delivered to the licensee and the Director.

§ 58.1-4215. Minimum requirements of electronic gaming devices.

In addition to meeting the definition of electronic gaming device established in § 58.1-4200, electronic gaming devices shall:

1. Show the rules of play for each game in a way that adequately describes or displays such information so that a reasonable person could understand the game prior to placing a wager;

2. Accept only cash wagers or tickets generated from electronic gaming devices that may be redeemed for play at another electronic gaming device located on the same premises;

3. Prohibit the modification of the rules of play for a game once a game is initiated;

4. Prohibit the remote modification or manipulation of games, except as required or approved by the Director pursuant to the provisions of this chapter;

5. Pay out no more than \$4,000 in winnings for a single play of a game;

6. Have an identification badge or sufficient integrity affixed to the exterior of the device by the manufacturer that is not removable without leaving evidence of tampering;

7. Have a currency storage area that is secured by two locks before the currency can be removed and that is only accessible by the operator licensee;

8. Make payments to successful players by issuing a voucher that can be redeemed for cash at the host location's ticket redemption terminal;

9. Have the ability to allow for an independent integrity check by an independent testing laboratory approved by the Director of all software that may affect the integrity of the game;

10. Be connected to the central accounting system established and operated by the Department under the provisions of § 58.1-4216;

11. Have the ability to detect and display the device's complete play history and winnings for the previous 100 games;

12. Contain a non-resettable meter, which shall be located in a locked area of the device that is accessible only by a key;

13. Have the capability of storing the meter information for a minimum of 180 days after a power loss to the device; and

14. Conspicuously display the required registration label on the face of the device issued in accordance with this chapter.

§ 58.1-4216. Requirement for central accounting system.

A. Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth shall be connected to a central accounting system established and operated by the Department.

The central accounting system shall collect the following information from each device: (i) cash in; (ii) payouts; (iii) points, credits, or amounts played; (iv) points, credits, or amounts won; (v) gross profit; (vi) the number of plays of the game; and (vii) the amounts paid to play the game.

The central accounting system shall not provide for the monitoring or reading of personal or financial information concerning players of electronic gaming devices.

B. Within 90 days after the end of each fiscal year, the category of licensee responsible for the remittance of the gaming tax as determined by the Board, shall submit to the Director a third-party, independent audit of the financial transactions and condition of such licensee's total operations. All audits required by this subsection shall conform to Board regulations.

§ 58.1-4217. Conspicuous labeling of all electronic gaming devices.

The distributor of each electronic gaming device shall cause to be adhered to each electronic gaming device a label as prescribed by the Director prior to the placement of such electronic gaming device in a host location. The Department shall provide the required labels. All labels shall be adhered on the face of all electronic gaming devices in a conspicuous and visible location to the Department, law-enforcement agents and officers, and players of the game. Any electronic gaming device offered for play without the requisite label adhered to the electronic gaming device shall be, in addition to any other penalty provided by law, in violation of this chapter.

Article 4.
Taxation.

§ 58.1-4218. Gaming tax on gross profits.

A. 1. Distributors shall remit a monthly tax of \$1,200 to the Department for each electronic gaming device that such distributor provided for play in the Commonwealth during the previous month. No more than a total of 30,000 electronic gaming devices may be distributed for play in the Commonwealth at any time.

2. The gaming tax imposed pursuant to this section shall not apply to any activity regulated under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 or Chapter 41 (§ 58.1-4100 et seq.).

3. The gaming taxes collected shall accrue to the Electronic Gaming Proceeds Fund and be allocated in accordance with § 59.1-603.

B. The gaming tax collected pursuant to this section shall be collected by the Department at a frequency established by Board regulations and shall be accompanied by forms and returns prescribed by the Board. The Director may suspend or revoke a license for willful failure to submit any such payments or associated returns within the specified time.

§ 58.1-4219. Elementary and Secondary Education Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Elementary and Secondary Education Fund, referred to in this section as the "Fund." The Fund shall be established on the books of the Comptroller and 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. The Fund shall consist of (i) any gross receipts tax distributed pursuant to subdivision B 3 of § 59.1-603; (ii) any other moneys appropriated to it by the General Assembly; and (iii) such other sums as may be made available to it from any other source, public or private, all of which shall be credited to the Fund.

Amounts appropriated from the Fund to the Commonwealth's counties, cities, and towns, and the school divisions thereof, shall be expended for the purposes of public elementary and secondary education.

Any county, city, or town that accepts a distribution from the Fund shall provide its portion of the cost of maintaining an educational program meeting the standards of quality prescribed pursuant to Section 2, Article VIII of the Constitution of Virginia without the use of distributions from the Fund.

B. For the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, all deposits to and appropriations from the Fund shall be accounted for and considered to be a part of the general fund of the state treasury.

Article 5.

Prohibited Acts; Penalties, Etc.

§ 58.1-4220. Illegal manufacture, distribution, or hosting; penalty.

A. In addition to any other penalties provided for by law, no person shall:

1. Manufacture, sell, or lease to any person electronic gaming devices or major components or parts, including software and hardware, for electronic gaming devices without a manufacturer license issued by the Director.

2. Distribute, sell, or lease to any person electronic gaming devices or major components or parts, including software or hardware, for electronic gaming devices, or purchase, own, operate, possess, or place in the Commonwealth electronic gaming devices, or maintain and service such devices without a distributor license issued by the Director.

3. Operate an establishment where one or more electronic gaming devices are made available for play by the public without a host location license issued by the Director.

4. Solicit, offer, or enter into any contract or agreement for the placement of an electronic gaming device until the distributor, operator, host location, and procurement agent, if applicable, are all issued a license by the Director pursuant to this chapter.

B. A violation of this section is a Class 6 felony.

§ 58.1-4221. Underage play prohibited; penalty.

A. In addition to any other penalties provided for by law, no person younger than 21 years of age shall be eligible to operate an electronic gaming device regulated pursuant to this chapter. A distributor licensee shall adhere to the front of all electronic gaming devices a notice in 16-point Times New Roman bold font that states the following: "No person shall play any electronic gaming device unless such person is 21 years of age or older."

B. In addition to any other penalties provided for by law, no person shall redeem any evidence of winnings from any person who is not 21 years of age or older.

C. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4222. Prohibited acts by host location licensees; penalty.

A. In addition to any other penalties provided for by law, no host location licensee or its employees or agents shall:

1. Knowingly permit any person who is not 21 years of age or older to play any electronic gaming device;

2. Give any reward for the play of an electronic gaming device that is not authorized by this chapter;

3. Give any reward for the play of an electronic gaming device that is redeemable at a location other than the host location's ticket redemption terminal;

4. Accept any inducement from a distributor licensee; or

5. Extend credit to any person for the purpose of playing any electronic gaming device.

B. A violation of this section is a Class 1 misdemeanor.

C. Any person who is convicted of a third or subsequent offense under this section, and it is alleged in the warrant, indictment, or information that such person has been before convicted of two or more offenses under this section and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, is guilty of a Class 6 felony.

D. Any person who is convicted of a felony offense under this section shall have his electronic gaming device license suspended for a period of two years. Any person who is convicted of a second felony offense under this section shall have his electronic gaming device license suspended for a period of 10 years, and any person who is convicted of a third or subsequent felony offense shall have his electronic gaming device license permanently suspended. The court shall order the suspension of such license upon conviction.

§ 58.1-4223. Illegal tampering with electronic gaming devices; penalty.

In addition to any other penalties provided for by law, no person other than an operator licensee shall possess or use any key or device designed for the purpose of opening, entering, or affecting the operation of an electronic gaming device or otherwise tamper with an electronic gaming device. A violation of this section is a Class 6 felony.

§ 58.1-4224. Conspiracies and attempts to commit violations; penalty.

A. In addition to any other penalties provided for by law, any person who conspires, confederates, or combines with another, either within or outside of the Commonwealth, to commit a felony prohibited by this chapter is guilty of a Class 6 felony.

B. In addition to any other penalties provided for by law, any person who attempts to commit any act prohibited by this chapter is guilty of a criminal offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 58.1-4225. Exclusion from the applicability of this chapter.

This chapter shall not apply to sports betting authorized under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 or casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.).

§ 58.1-4226. Certain provisions in Article 1 (§ 58.1-4000 et seq.) of Chapter 40 to apply mutatis mutandis.

Except as provided in this chapter, the provisions of subdivision A 54 of § 2.2-3711, § 11-16.1, subdivision A 14 of § 19.2-389, and Article 1 (§ 58.1-4000 et seq.) of Chapter 40 shall apply mutatis mutandis to electronic gaming devices under this chapter. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this chapter.

CHAPTER 57.

VIRGINIA GAMING COMMERCE REGULATION.

§ 59.1-603. Virginia Gaming Commerce Regulation Fund; distribution of gross profits and gaming tax revenue.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Gaming Commerce Regulation 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 and interest earned on moneys in the Fund shall remain in the Fund and be credited to it.

B. Revenues from the Fund shall be apportioned by the Comptroller as follows:

1. Two and a half percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2;

2. Thirty-five percent to the School Construction and Modernization Fund established pursuant to § 22.1-140.1 for the purpose of awarding grants from the School Construction and Modernization Fund to local school boards to fund the construction of new public school buildings or the renovation or expansion of existing public school buildings in the local school division;

3. Thirty-five percent to the Elementary and Secondary Education Fund established pursuant to § 58.1-4219 for the purpose of elementary and secondary public education in the Commonwealth;

4. Fifteen percent to the Department of Taxation for distribution to the locality in which the host location operates provided that such locality agrees to appropriate at least 33 percent of such distribution to the locality's local law-enforcement agencies;

5. Two and a half percent to the Department of State Police to be used by the Office of the Gaming Enforcement Coordinator established pursuant to § 52-54;

6. Five percent to the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; and

7. Five percent to the Gaming Regulatory Fund established pursuant to § 58.1-4048 to cover the costs of administration and oversight of electronic gaming devices, including the central accounting system, in accordance with the provisions of this chapter.

C. Allocation of funds pursuant to this section shall occur no later than 60 days after such funds are collected and only after the Department has verified the accuracy of the collected balances.

D. For purposes of this section, "Department" means the independent agency responsible for the

administration of the Virginia Lottery pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40 and the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40, casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and electronic gaming devices pursuant to this Chapter 42 (§ 58.1-4200 et seq.).

2. That, notwithstanding the provisions of the first enactment of this act to the contrary and until the Virginia Lottery Board (the Board) adopts the permanent regulations necessary to implement the provisions of this act pursuant to the fifth enactment of this act, the provisions of the first enactment of this act shall be administered by the Virginia Alcoholic Beverage Control Authority (the Authority). During the Authority's administration of such provisions, the Authority shall be vested with all powers and duties of the Board that are necessary for such administration of the provisions of the first, second, third, and fourth enactments of this act, including the collection of fees and taxes as described in §§ 58.1-4205 and 58.1-4218 of the Code of Virginia, as created by this act. No later than August 30, 2024, each distributor of an electronic gaming device shall file a registration statement with the Authority on such form as may be prescribed by the Authority. Such registration statement shall include all electronic gaming devices that are available for play by such distributor and such information as may be prescribed by the Authority. Such registration statement also shall include (i) the total number of electronic gaming devices provided for play in the Commonwealth by such distributor; (ii) the address of each location where the electronic gaming devices are provided for play in the Commonwealth by such distributor; (iii) the total number of electronic gaming devices provided for play in the Commonwealth by such distributor at each respective location; and (iv) the name, address, and contact information of the individual responsible for full and total compliance with Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act, and law and a statement that such individual shall be responsible for any penalty assessed for violations of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act, or law applicable to the distributor of any electronic gaming devices. Such individual shall certify that the initial registration is a true and accurate accounting of the information provided in the initial registration statement. Failure to file such registration statement by August 30, 2024, shall result in the barring of any such electronic gaming devices not registered. Any such electronic gaming devices not included in such registration statement that is operating or placed in the Commonwealth shall be considered an unregistered electronic gaming device, as defined in § 18.2-325 of the Code of Virginia, as amended by this act, and subject such penalties pursuant to § 18.2-331.2, 18.2-331.3, or 18.2-331.4 of the Code of Virginia, as created by this act. Each distributor of an electronic gaming device shall post a surety bond naming the Authority as beneficiary. The Authority may call the bond for any violation of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act, or law regulating electronic gaming devices.

3. That by July 30, 2024, the Virginia Alcoholic Beverage Control Authority (the Authority) shall create a registration label that is to be adhered to each individual electronic gaming device that is properly registered with the Authority. The Authority shall make available such label to the distributor of each and every electronic gaming device placed in a host location, as provided for in §§ 58.1-4200 and 58.1-4208 of the Code of Virginia, as created by this act, by August 25, 2024, and no later than September 1, 2024, the distributor of each and every electronic gaming device placed in a host location shall cause such label to be adhered to each individual electronic gaming device that was previously prescribed by the Authority. All labels shall be placed on the face of the electronic gaming device in a clearly visible and conspicuous location for law enforcement and players. Any electronic gaming device found to not have such label and not be properly registered with the Authority shall be in violation of this act and subject to immediate seizure and forfeiture pursuant to § 18.2-331.2, 18.2-331.3, or 18.2-331.4 of the Code of Virginia, as created by this act.

4. That beginning October 1, 2024, and each month following until the Virginia Lottery Board (the Board) adopts the regulations necessary to implement the provisions of this act, each distributor shall provide a report to the Virginia Alcoholic Beverage Control Authority (the Authority), in such form as required by the Authority, detailing (i) the total number electronic gaming devices provided for play in the Commonwealth by such distributor, (ii) the address of each location where the electronic gaming devices are provided for play in the Commonwealth by such distributor, (iii) the total number of electronic gaming devices provided for play in the Commonwealth by such distributor at each respective location, (iv) the total amount wagered during the previous month on each electronic gaming device provided for play in the Commonwealth by such distributor at each respective location where the electronic gaming device was provided, and (v) the total amount of prizes or winnings awarded during the previous month on each electronic gaming device provided for play in the Commonwealth by such distributor at each respective location where the electronic gaming device was provided. The Authority shall aggregate information collected pursuant to this enactment and report it to the Governor, the Chairman of the Senate Committee on Finance and Appropriations, and the Chairmen

of the House Committees on Appropriations and Finance on a monthly basis. The October 1, 2024, report from the each distributor to the Authority shall also include the required reportable information for the period of time from July 1, 2024, to September 30, 2024.

For purposes of the second, third, and this enactment, "distributor" means any person that (i) manufactures and sells electronic gaming devices, including software and hardware, and distributes such devices to a host location or (ii) purchases or leases electronic gaming devices from a manufacturer and provides such devices to a host location, and who otherwise maintains such electronic gaming devices and is otherwise responsible for on-site data collection and accounting.

5. That, by June 30, 2025, the Virginia Lottery Board (the Board) shall implement permanent regulations necessary to implement the provisions of this act. The Board's initial adoption of such regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. The Board shall certify in writing to the Virginia Code Commission the date of final adoption of such regulations. However, the Board may adopt emergency regulations necessary to implement the provisions of this act by January 1, 2025. The Board's adoption of such emergency regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

6. That the initial procurement by the Virginia Lottery of the central accounting system for electronic gaming devices required by § 58.1-4216 of the Code of Virginia, as created by this act, shall be exempt from the departmental procurement regulations promulgated by the Virginia Lottery Board pursuant to § 58.1-4007 of the Code of Virginia. The Virginia Lottery may charge reasonable fees to recover any actual costs incurred in such initial procurement to manufacturers, distributors, and operators, as such terms are defined in § 58.1-4200 of the Code of Virginia, as created by this act, and any fees so charged shall be in addition to any authorized by the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act.

7. That the Virginia Lottery (the Department) is authorized to begin accepting applications for licensure in accordance with the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 of the Code of Virginia, as created by this act, on January 1, 2025. Licenses shall be issued no later than July 1, 2025. Notwithstanding the provisions of § 58.1-4205 of the Code of Virginia, as created by this act, the Department may, for an amount of time to be determined by the Virginia Lottery Board, require an applicant for licensure to pay all application fees at the time the applicant submits its application to the Department. Any applicant who, during such period, submits an application and accompanying fee but is not granted a license by the Department shall be reimbursed. The Director of the Virginia Lottery shall, beginning August 30, 2024, provide quarterly status updates to the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Appropriations, Senate Committee on General Laws and Technology, and House Committee on General Laws and to the Governor on the status and implementation of this act, including the procurement of the central accounting system for electronic gaming devices required by § 58.1-4216 of the Code of Virginia, as created by this act.

8. That (i) the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice; and (ii) the budget bill introduced pursuant to § 2.2-1508 of the Code of Virginia for the 2025 Regular Session of the General Assembly shall include such necessary appropriation.

9. That this act shall be referred to as the Virginia Gaming Commerce Regulation Act.