

## 2025 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

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### HOUSE BILL NO. 2747

Offered January 17, 2025

A BILL to amend and reenact §§ 2.2-510, 2.2-511, 18.2-325, 18.2-326, 18.2-329, 18.2-330, 18.2-331, 18.2-331.1 of the Code of Virginia, relating to regulating electronic gaming devices, licensees, taxation, placement and compliance; penalties.

Patron—Feggans

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-510, 2.2-511, 18.2-325, 18.2-326, 18.2-329, 18.2-330, 18.2-331, 18.2-331.1 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 40 of Title 58.1 Article 3.

#### § 58.1-4048. Definitions.

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.) 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. 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.

"Adjusted gross gaming revenue", the amount of revenue generated by an electronic gaming terminal remaining: (a) after payments of winnings to players; and, (b) after deduction by the Commission of that amount necessary to pay direct administrative costs for the operation of the centralized control system, but before deduction of the adjusted gross gaming revenue tax.

"Adjusted gross gaming revenue tax" means a tax of twenty percent (20%) imposed on adjusted gross gaming revenue.

"Net terminal income" means the amount of adjusted gross gaming revenue remaining after deduction of adjusted gross gaming revenue tax to be divided between the retailer and the operator.

"Central control system" means a computerized system developed or procured by the Commission to which electronic gaming terminals are connected, using standard industry protocols that can activate or deactivate a particular electronic gaming terminal from a remote location, and that is capable of monitoring and auditing electronic gaming terminal plays.

"Commission" means Virginia Gaming Commission and any successor department(s) or agency(s) designated by the Virginia General Assembly to regulate electronic gaming terminals.

"Distributor" means a person that manufactures, distributes, sells or leases electronic gaming terminals, electronic gaming terminal games, components or parts, and other ancillary components, software and hardware for electronic gaming terminals, to manufacturers, distributors or operators.

"Electronic gaming terminal" means a device that: (a) exchanges currency, tickets, ticket vouchers, or electronic payment methods approved by the Commission for credit to play electronic gaming terminal games approved by the Commission the outcome of which are determined predominately by either chance or by the skill of the player; (b) uses a video display, computer, microprocessors, and a random number generator capable of randomly generating the outcome of electronic gaming terminal games; (c) is configured to print and issue a ticket at the conclusion of any electronic gaming terminal game play that may be redeemed at a redemption terminal for cash or may be reinserted into an electronic gaming terminal at the same retailer location for electronic gaming terminal game credit and game plays, commonly known as "ticket-in ticket-out"; and (d) meets the minimum requirements set forth in this Chapter. Electronic gaming terminal does not include 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.), 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.

"Electronic gaming terminal game" means any game approved by the Commission for play on an

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electronic gaming terminal approved by the Commission.

**"Electronic game credit" or "credit"** means a credit purchased or won on an electronic gaming terminal that may be used to play electronic gaming terminal games or converted into an electronic game ticket.

**"Electronic game ticket" or "ticket"** means document printed at the conclusion of any electronic gaming terminal play or group of plays that is redeemable for cash utilizing a redemption terminal, or that may be reinserted into an electronic gaming terminal located in the retailer location for electronic gaming terminal game play, commonly known as "ticket-in ticket-out".

**"Gaming area"** means that area of the retailer's business location designated by the Operator and approved by the Commission for the placement and operation of the electronic gaming terminals. The gaming area shall be a designated area where all electronic gaming terminals, redemption terminals and ancillary equipment necessary for the operation of the electronic gaming terminals are located. The Commission shall adopt minimum standards for the gaming area.

**"Independent testing laboratory"** means a laboratory selected by the Commission outside testing laboratories that have been accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement signifying they are qualified to perform such examinations. Notwithstanding any law to the contrary, the Commission shall consider the licensing of independent outside testing laboratory applicants in accordance with procedures established by the Commission by rule. The Commission shall not withhold its approval of an independent outside testing laboratory license applicant that has been accredited as required by this Section and is licensed in lottery jurisdictions comparable to Virginia. Upon the finalization of required rules, the Commission shall license independent testing laboratories and accept the test reports of any licensed testing laboratory of the electronic gaming terminal or associated equipment manufacturer's choice, notwithstanding the existence of contracts between the Commission and any independent testing laboratory. Commission 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 article and to otherwise perform the functions assigned to it by this article. An independent testing laboratory shall not be owned or controlled by a manufacturer, distributor, operator, or host location licensee or the Commonwealth.

**"Individual"** means a natural person.

**"Inducement"** means anything of value offered, given, transferred, or paid, directly or indirectly, by an operator, or any employee, agent, contractor or other person acting on behalf of any operator, to any retailer, or any employee, investor, agent, owner or officer of any retailer to solicit, enter into, grant, execute, renew, extend or maintain a use agreement by and between the operator and the retailer, including but not limited to any cash, incentive, marketing and advertising cost, gift, food, beverage, loan, financing arrangement, prepayment of gross revenue, or any other contribution or payment that offsets a host's capital or operational costs, or as otherwise determined by the Commission.

**"Inducement" does not include the following costs paid by an operator:**

1. Costs for structural changes or modular materials or equipment used to segregate the gaming area, to meet minimum standards for the gaming area as established by the Commission or to maintain the security of the gaming area, the electronic gaming terminals and redemption terminals; provided, however, that such costs shall not exceed \$5,000; provided further, however, that any costs in excess of \$5,000 may be shared equally between the operator and the retailer, or the applicant for a retailer license.

2. Surveillance equipment, alarm systems and similar equipment or systems intended to monitor and secure the gaming area, the electronic gaming terminals, redemption terminals, the perimeter of the retailer location and any means of ingress and egress thereto, and any means of ingress and egress to the gaming area.

3. The wiring or rewiring of the gaming area necessary to operate electronic gaming terminals, redemption terminals or ancillary equipment; provided, however that such costs shall not exceed \$5,000; provided further, however, that that any costs in excess of \$5,000 may be shared equally between the operator and the retailer, or the applicant for a retailer license.

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

5. Any requirement established by the Commission regarding minimum standards for the operation of electronic gaming terminals, redemption terminals or the gaming area that the Commission determines may be paid for, in whole or in part, by the operator.

6. The operator and retailer shall report to the Commission all costs paid by the operator identified above pursuant to rules adopted by the Commission.

**"Institutional investor"** means a retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees, an investment company registered under section 8 of the

Investment Company Act of 1940 (15 U.S.C. 80a-8), a collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18), A closed end investment trust registered with the United States Securities and Exchange Commission, a chartered or licensed life insurance company or property and casualty insurance company; a federal or state bank, and investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. 80b-1 through 80b-21); or such other person as the Commission may determine for reasons consistent with this Article.

**"Licensee" or "license holder"** means any person holding a manufacturer, distributor, operator, or retailer license under this article.

**"Manufacturer"** means a person that manufactures and sells or leases electronic gaming terminals, electronic gaming terminal games, components or parts, and other ancillary components, software and hardware for electronic gaming terminals, to distributors or operators.

**"Operator"** means any person that owns, leases, operates, maintains and places electronic gaming terminals at retailer locations pursuant to use agreements by and between the operator and the retailer.

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

**"Player"** means an individual who plays an electronic gaming terminal.

**"Procurement agent"** means a person who is an employee or independent contractor of an operator to solicit and procure use agreements from retailers on behalf of an operator Procurement agents shall be licensed by the Commission pursuant to rules adopted by the Commission.

**"Publicly traded corporation"** means a person, other than an individual, that (i) has a class or series of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. 78a et seq.), (ii) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. 80a-1 et seq.), or (iii) is subject to the reporting obligations imposed by 15(d) of the Securities Exchange Act of 1934 by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. 77a et seq.).

**"Redemption terminal"** means a device, software, communications technology, and other ancillary equipment used to facilitate the redemption and payment of tickets cashed out by players as a result of playing an electronic gaming terminal. All redemption devices shall be approved by the Commission.

**"Retailer"** means any person authorized by the Virginia Lottery to offer and sell lottery games or products who is licensed by the Commission to host electronic gaming terminals in the gaming area at the retailer location, which are placed, operated and offered to the public for play by an operator pursuant to a use agreement between the retailer and the operator.

**"Retailer location"** means the retailer's principal place of business.

**"Single play"** means the period beginning when a player pays an electronic gaming terminal credit activating an electronic gaming terminal game play function and concludes upon the outcome of such electronic gaming terminal game play, and such game play function will not continue without payment by the player of an additional electronic gaming terminal credit.

**"Subsidiary"** means a person, other than an individual, including (i) a corporation, a significant part of whose outstanding equity securities are owned, subject to a power or right of control or held with power to vote, by a holding company or an intermediary company; (ii) a significant interest in a person, other than an individual, that is owned, subject to a power or right of control or held with power to vote, by a holding company or an intermediary company; or (iii) a person deemed to be a subsidiary by the Commission.

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

**"Use agreement"** a written contract executed by and between a retailer and an operator on that form approved by the Commission establishing the right of the operator to place and operate electronic gaming terminals on the location of a retailer.

#### **58.1-4049. Powers and duties of the Commission.**

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

1. Issue licenses under this article, and regulated and supervise all activities licensed under the provisions of this article, including the manufacturing, distributing, operating, hosting, and playing of electronic gaming terminals;

2. Impose fines, suspend, revoke, or refuse to renew any licensee or license or issued pursuant to this article or the rules and regulations adopted by the Commission pursuant to this article;

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 article and Commission regulations are strictly complied with;

4. Order such audits as deemed necessary;

5. Certify and 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

181 Appropriations State Comptroller and the Commission a full and complete statement of adjusted gross  
182 gaming revenue, and adjusted gross gaming revenue tax from electronic gaming terminals for the previous  
183 month;

184 6. Conduct and perform all acts and adopt such regulations necessary and advisable to carry out the  
185 purposes of this article;

186 7. Upon request by the assessing official of a county or municipality, the Commission shall provide to  
187 such assessing official of such municipality or county the adjusted gross gaming revenue generated by  
188 electronic gaming terminals located in such municipality or county pursuant to this article.

189 **58.1-4050. Additional powers and duties of the Commission related to electronic gaming devices.**

190 A. In addition to the regulations adopted pursuant to this article, the Commission shall promulgate  
191 regulations related to electronic gaming terminals that:

192 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient for  
193 the administration of this article;

194 2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the costs of  
195 the administration and enforcement of electronic gaming terminals pursuant to this article;

196 3. Establish requirements for all licensees under this article for the form, content, and retention of all  
197 records and accounts;

198 4. Establish a process for the approval or disapproval of electronic gaming terminals, electronic gaming  
199 terminal games, and redemption devices;

200 5. Establish cash handling and accounting procedures for operators that require such licensees to keep  
201 separate accounts for electronic gaming and nongaming transactions;

202 6. Require inspections of all licensees at a frequency determined by the Commission;

203 7. Establish a program of periodic testing and inspection for all electronic gaming terminals; and

204 8. Prohibit licensees and their affiliates from advertising or marketing their products and services related  
205 to electronic gaming terminals to the public. However, (i) licensees shall be allowed to describe their  
206 products and services on a website and social media site operated and maintained by the licensee pursuant to  
207 rules adopted by the Commission; (ii) retailer licensees shall be allowed to advertise on one sign physically  
208 located at the retailer location, provided such sign is no larger than four feet in height by eight feet in width  
209 and containing messages approved by the Commission; and (iii) licensees shall be allowed to advertise and  
210 market their products and services through voluntary player rewards programs that allow players to opt out  
211 of such program, pursuant to rules adopted by the Commission.

212 B. There is hereby created a Special Gaming Enforcement Fund. Ten percent (10%) of all fees collected  
213 by the Commission pursuant to this Article shall be deposited into the Special Gaming Enforcement Fund for  
214 use by the Attorney General in funding enforcement actions involving violations of Chapter 40 of Title 58.1  
215 Article 3 and violations of Chapter 8 of Title 18.2, Article 1.

216 **58.1-4051. Licenses.**

217 A. The Commission may grant the following licenses:

218 1. Manufacturer license, which shall authorize the licensee to function and operate as a manufacturer  
219 pursuant to this article.

220 2. Distributor license, which shall authorize the licensee to function and operator as a distributor  
221 pursuant to this article.

222 3. Operator license, which shall authorize the licensee to function and operate as an operator pursuant to  
223 this article.

224 4. Retailer license, which shall authorize the licensee to function and operate as a retailer pursuant to this  
225 article.

226 B. Notwithstanding the provisions of subsection A, no application or license shall be required by the  
227 Commission for an institutional investor if the institutional investor holding securities or other ownership  
228 interests in a licensee were purchased for investment purposes only. No application or license shall be  
229 required for an institutional investor that holds securities or other ownership interests, so long as such  
230 institutional investor files with the Commission a certified statement that: (1) it has no intention of  
231 influencing or affecting, directly or indirectly, the affairs of the licensee, provided, however, that such  
232 institutional investor shall be permitted to vote on matters put to the vote of the outstanding security holders;  
233 and (2) such other matters determined necessary for the administration of this article by the Commission  
234 pursuant to rules promulgated by the Commission.

235 **58.1-4052. General licensing requirements; penalty.**

236 A. An applicant for a manufacturer, distributor, operator, or retailer host license shall submit an  
237 application to the Commission on forms provided by the Commission, accompanied by any fees required by  
238 the Commission.

239 B. The chief security officer of the Commission shall conduct a background investigation, to include a  
240 Virginia Criminal History Records search and fingerprinting, that shall be submitted to the Federal Bureau  
241 of Investigation if the Commission deems a national criminal history records search is necessary, on

applicants for licensure pursuant to this article.

*C. The Commission shall refuse to grant a license to any person, and shall suspend, revoke, or refuse to renew a license issued pursuant to this article to any person, who has been (i) convicted of any crime involving moral turpitude, (ii) convicted of illegal gambling, (iii) convicted of fraud or misrepresentation, (iv) convicted of any felony, or (v) found to have engaged in conduct prejudicial to public confidence in the Commission, or any activity regulated by the Commission, including but not limited to the manufacture, distribution, operation, placing or hosting electronic gaming terminals.*

*D. The Commission shall refuse to grant a license or shall suspend, revoke, or refuse to renew a license issued pursuant to this article to a partnership or corporation if he determines that any general or limited partner, or officer or Commission of such partnership or corporation, has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.*

*E. The Commission may also refuse to grant a license pursuant to this article if:*

*1. The Commission reasonably believes that the applicant or any general or limited partner, or officer or director of such applicant lacks good character, honesty, or integrity;*

*2. The Commission reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of electronic gaming terminals, or (iii) promote unfair or illegal activities in the conduct of electronic gaming terminals;*

*3. The applicant or any general or limited partner or any agent, officer or director of such applicant knowingly makes a false statement of material fact to the Commission, or deliberately fails to disclose information requested by the Commission;*

*4. The applicant or any general or limited partner or any officer or Commission of such applicant knowingly fails to comply with the provisions of this article or any requirements of the Commission;*

*5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an electronic gaming terminal or similar gambling device, or to otherwise engage in regulated, legal gambling activity issued by any other jurisdiction has been suspended or revoked;*

*6. The applicant defaults in payment of any obligation or debt due to the Commonwealth.*

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

**58.1-4053. License posting; expiration.**

*A. Each license granted by the Commission shall designate the place 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 license granted by the Commission shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Commission would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Commission.*

*D. The Commission may grant licenses for one year or for multiple years, not to exceed five years. Qualifications for a multiyear license shall be determined on the basis of criteria established by the Commission. Fees for multiyear licenses shall not be refundable.*

*E. 60 days before the expiration of a license, the license holder may submit a renewal application on forms prescribed by the Commission. The Commission may deny a license renewal if the Commission finds grounds for denial as described in 58.1-4052.*

**58.1-4054. Prohibition against the issuance of multiple licenses to one person.**

*A. For purposes of this section, "interest" means the direct or indirect ownership, equity ownership, stock ownership, financial interest, loan, financial arrangement, investment, employment, management or other similar interest by a person, including but not limited to being an investor, shareholder, member, partner, lender, officer, director, or employee, in a licensee licensed pursuant to this article.*

*B. No licensee that has been issued a manufacturer license or a distributor license shall be issued an operator license or a retailer license. A person licensed as a manufacturer or a distributor shall not have any interest in any operator, or retailer. A licensee that has been issued a manufacturer license may also be issued a distributor license or have an interest in a distributor. A licensee that has been issued a distributor license may also be issued a manufacturer license or have an interest in a manufacturer licensee.*

*C. No licensee that has been issued an operator license shall be issued a manufacturer, distributor or retailer license. A person licensed as an operator shall not have any interest in any manufacturer, distributor*

or retailer.

*D. No licensee that has been issued a retailer license shall be issued a manufacturer, distributor or operator license. A person licensed as a retailer shall not have any interest in any manufacturer, distributor or operator.*

**58.1-4055. Prohibition against transferring licenses or use agreements without approval of Commission.**

*A licensee shall not transfer, directly or indirectly, its license or assign responsibility for compliance with the conditions of its license, in whole or in part, to any party without approval of the Commission. An operator, manufacturer, or distributor shall not transfer any electronic gaming terminal to any other operator, manufacturer or distributor without approval of the Commission. An operator or a retailer shall not transfer any use agreement to any other operator or retailer without the approval of the Commission. The Commission shall promulgate rules for the transfer of licenses, electronic gaming terminals and use agreements.*

**58.1-4056. Suspension and revocation of licenses; civil penalties; hearing and appeal.**

*A. If the Commission determines that any provision of this article, or any regulation of the Commission, has not been complied with or has been violated by a licensee, the Commission may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed \$100,000 or as otherwise set in this article; or (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Commission shall state the reasons for doing so, which shall be entered of record.*

*B. Any person aggrieved by a refusal of the Commission to issue or re-issue any license, the suspension or revocation of a license, the imposition of a fine, or any other action of the Commission may seek review of such action in accordance with Article 5 ( 2.2-4025 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 of the Administrative Process Act.*

*C. Suspension or revocation of a license by the Commission for any violation shall not preclude criminal liability for such violation. The Commission shall adopt rules for the administration of this section.*

**58.1-4057. Minimum requirements for use agreements between operator licensee and host location licensee; division of revenue; procurement agents.**

*A. No retailer shall allow the placement or operation of an electronic gaming terminal, and no operator shall place or operate an electronic gaming terminal at a retailer location unless the operator and the retailer have entered into a use agreement. All use agreements shall be on forms proscribed by the Commission.*

*B. A copy of the use agreement shall be maintained in the business office of both the operator and the retailer and shall be available at all times for inspection by the Commission. A copy of the use agreement shall be filed with the Commission by the operator within thirty (30) days after the execution of the use agreement by the operator and retailer.*

*C. The use agreement shall be exclusive between one operator and one retailer.*

*D. The use agreement shall be valid for a term of not less than five years, and not more than ten years, and shall not contain an automatic renewal clause, or any clause requiring the retailer to provide notice of such retailer's intent to renew or not renew such use agreement. A first in time use agreement executed in compliance with this section shall control over subsequently executed use agreements.*

*E. The use agreement shall provide that adjusted gross gaming revenue remaining after remittance of the adjust gross gaming revenue tax shall be divided equally between the retailer and the operator. No person shall receive any portion of adjusted gross gaming revenue except for the operator and retailer, except as approved by the Commission in compliance with rules promulgated by the Commission.*

*G. Pursuant to a written commission agreement approved by the Commission in compliance with rules promulgated by the Commission, a procurement agent may be paid a commission for the solicitation and procurement of a use agreement in an amount not to exceed \$5,000 per month during the term of the use agreement. The Commission may increase or decrease the amount of such commission by regulation. The procurement agent representing the operator shall be identified on the use agreement.*

*H. Any use agreement, or any other agreement, option, contract or other similar instrument regarding the placement and operation of an electronic gaming terminal shall be invalid, null and void unless executed by a licensed operator and an applicant for a retailer license or a licensed retailer after the effective date of this Article.*

*I. Any rent provision in any lease of real estate for a retailer location that requires, directly or indirectly, the payment of rent tied to the generation of adjusted gross gaming revenue or in any way tied, directly or indirectly, the play of or generation of revenue from an electronic gaming terminal is prohibited and shall be invalid. An operator, or any affiliate of any operator, a manufacturer, or any affiliate of any manufacturer, and a distributor, or any affiliate of any distributor, shall not lease real estate to a retailer.*

**58.1-4058. Approval of electronic gaming terminals by the Commission.**

*A. No electronic gaming terminal or electronic gaming terminal game shall be offered for play by the*

public in the Commonwealth unless such electronic gaming terminal or electronic gaming terminal game has first been approved by the Commission.

**B.** Before selling, leasing, or otherwise providing an electronic gaming terminal or electronic gaming terminal game to an operator, a manufacturer shall provide a prototype or production sample of such electronic gaming terminal or electronic gaming terminal game to an independent testing laboratory that has been approved by the Commission, which shall evaluate and certify whether such electronic gaming terminal or electronic gaming terminal game meets the definition of electronic gaming terminal or electronic gaming terminal game under **58.1-4048**, the requirements of **58.1-4059**, and any other requirements established by the Commission by rule. Along with the prototype or production sample of the electronic gaming terminal, the manufacturer shall provide the following information concerning the electronic gaming terminal to the independent testing laboratory:

1. The method of determining the game outcome;
2. The available wagering denominations;
3. The minimum wager amount;
4. The maximum wager amount per play;
5. The amount of takeout for each wager;
6. The method of calculating winning payouts;
7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
8. The minimum payouts and the method of guaranteeing minimum payouts; and
9. Any other information requested by the independent testing laboratory or required by the Commission for use in the testing of the electronic gaming terminal or the electronic gaming terminal game.

The report of the independent testing laboratory shall be submitted by the manufacturer to the Commission. The Commission shall use the report in evaluating whether the electronic gaming terminal or electronic gaming terminal game shall be approved under this article.

If at any time a manufacturer makes a substantive change to any electronic gaming terminal or electronic gaming terminal game that has previously been approved by the Commission, such manufacturer shall resubmit the electronic gaming terminal to the Commission in a manner established by the Commission by rule.

**58.1-4059. Minimum requirements of electronic gaming terminals; maximum credit and maximum win; maximum number of electronic gaming terminals.**

All electronic gaming terminals, electronic gaming terminal games, and redemption devices shall be tested and approved pursuant to the rules adopted by the Commission, and each electronic gaming terminal and each electronic gaming terminal game offered in the Commonwealth for play shall conform to a model approved by the Commission. For the examination of electronic gaming terminals, electronic gaming terminal games, and redemption terminals as required by this Section, the Commission shall utilize the services of independent outside testing laboratories that have been accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement signifying they are qualified to perform such examinations. Notwithstanding any law to the contrary, the Commission shall consider the licensing of independent outside testing laboratory applicants in accordance with procedures established by the Commission by rule. The Commission shall not withhold its approval of an independent outside testing laboratory license applicant that has been accredited as required by this Section and is licensed in gaming jurisdictions comparable to the Commonwealth. Upon the finalization of required rules, the Commission shall license independent testing laboratories and accept the test reports of any licensed testing laboratory of the electronic gaming terminal or associated equipment manufacturer's choice, notwithstanding the existence of contracts between the Commission and any independent testing laboratory. The commission shall cause all keys and other required devices to be provided to operators necessary to allow the operator access to the logic door to the electronic gaming terminal. Every electronic gaming terminal offered in the Commonwealth for play must meet minimum standards approved by the Commission. Each approved model shall, at a minimum, meet the following criteria:

1. The electronic gaming terminal must conform to all requirements of federal law and regulations, including FCC Class A Emissions Standards.
2. The electronic gaming terminal must theoretically pay out a mathematically demonstrable percentage during the expected lifetime of the machine of all amounts played, which must not be less than 80%. The Commission shall establish a maximum payout percentage for approved models by rule. Electronic gaming terminals that may be affected by skill must meet this standard when using a method of play that will provide the greatest return to the player over a period of continuous play.
3. The electronic gaming terminals must use a random number generator computer, software, or similar random selection process to generate and produce an independent and random outcome of each play of an electronic gaming terminal game. The random selection process must meet 99% confidence limits using a standard chi-squared test for (randomness) goodness of fit.
4. The electronic gaming terminal must display an accurate representation of the game outcome.



426 5. The electronic gaming terminal must not automatically alter pay tables or any function of the electronic  
427 gaming terminal based on internal computation of hold percentage or have any means of manipulation that  
428 affects the random selection process or probabilities of winning a game.

429 6. The electronic gaming terminal must not be adversely affected by static discharge or other  
430 electromagnetic interference.

431 7. The electronic gaming terminal must be capable of detecting and displaying the following conditions  
432 during idle states or on demand: power reset; door open; and door just closed.

433 8. The electronic gaming terminal must have the capacity to display complete play history (outcome,  
434 intermediate play steps, credits available, bets placed, credits paid, and credits cashed out) for the most  
435 recent game played and 10 games prior thereto.

436 9. The theoretical payback percentage of an electronic gaming terminal must not be capable of being  
437 changed without making a hardware or software change in the electronic game terminal, either on site or via  
438 the central control system.

439 10. Electronic gaming terminals must be designed so that replacement of parts or modules required for  
440 normal maintenance does not necessitate replacement of the electromechanical meters.

441 11. The electronic gaming terminal must have non-resettable meters housed in a locked area of the  
442 electronic gaming terminal that keep a permanent record of all cash inserted into the machine, all winnings  
443 made by the terminal printer, credits played in the electronic gaming terminal, and credits won by players.  
444 The electronic gaming terminal must provide the means for on-demand display of stored information as  
445 determined by the Commission.

446 12. Electronically stored meter information required by this Section must be preserved for a minimum of  
447 180 days after a power loss to the service.

448 13. The electronic gaming terminal must have one or more mechanisms that accept cash in the form of  
449 bills. The mechanisms shall be designed to prevent obtaining credits without paying by stringing, slamming,  
450 drilling, or other means. If such attempts at physical tampering are made, the electronic gaming terminal  
451 shall suspend itself from operating until reset.

452 14. The electronic gaming terminals may be capable of operating on a cashless basis pursuant to rules  
453 adopted by the Commission.

454 15. The electronic gaming terminal shall have accounting software that keeps an electronic record which  
455 includes, but is not limited to, the following: total cash inserted into the electronic gaming terminal; the value  
456 of winning tickets claimed by players; the total credits played; the total credits awarded by an electronic  
457 gaming terminal; and pay back percentage credited to players of each electronic gaming terminal game; the  
458 electronic gaming terminal shall be capable of issuing and accepting tickets for play, commonly known as  
459 ticket-in, ticket-out.

460 16. The electronic gaming terminal shall be linked by a central control system to provide auditing  
461 program information as approved by the Commission. The central control system shall use a standard  
462 industry protocol, as defined by the Gaming Standards Association, and shall have the functionality to enable  
463 the Commission or its designee to activate or deactivate electronic gaming terminals from the central control  
464 system. In no event may the communications system approved by the Commission limit participation to only  
465 one manufacturer of electronic gaming terminals by either the cost in implementing the necessary program  
466 modifications to communicate or the inability to communicate with the central control system.

467 17. Electronic gaming terminals and redemption terminals shall be connected to a centralized control  
468 system developed or procured by the Commission. The Commission shall provide operators with the  
469 necessary protocols to connect electronic gaming terminals to the central control system after such electronic  
470 gaming terminals have been approved by the commission. No electronic gaming terminal or redemption  
471 terminals shall be placed in operation unless connected to the central control system.

472 18. Electronic gaming terminals shall not directly dispense anything of value except for tickets  
473 representing credits purchased or won on an electronic game terminal. The ticket shall indicate the total  
474 amount of award, the time of day in a twenty-four-hour format showing hours and minutes, the date, the  
475 electronic gaming terminal serial number, the sequential number of the ticket, and an encrypted validation  
476 number from which the validity of the prize may be determined.

477 19. Such other requirements as established by the Commission by rule.

478 20. An electronic gaming terminal may not directly dispense coins, cash, tokens, or any other article of  
479 exchange or value except for tickets. Tickets shall be dispensed by pressing the ticket dispensing button on  
480 the electronic gaming terminal at the end of a player's play. The cost of the credit shall be one cent, five  
481 cents, ten cents, twenty-five cents, or one dollar. The maximum credits played per play shall not exceed four  
482 dollars (\$4). No cash award for the maximum wager on any individual play shall exceed one thousand one  
483 hundred ninety-nine dollars (\$1,199), or one dollar (\$1) less than reporting threshold established under IRS  
484 FORM W2G.

485 21. No more than eight (8) electronic gaming terminals shall be placed and operated by an operator at a  
486 retailer location. A retailer shall not allow the placement of more than eight (8) electronic gaming terminals



at a retailer location.

**58.1-4060. Independent integrity checks of electronic gaming terminals and games.**

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

**58.1-4061. Requirement for central control system.**

Each electronic gaming terminal and redemption terminal being operated in the Commonwealth shall be connected to a central control system established and operated by the Commission. All electronic gaming terminals shall become disabled upon being disconnected from the central control system. The central control system shall collect the following minimum 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, (viii) the amounts paid to play the game, (ix) the amount of gaming tax accrued, (x) door openings, (xi) power failures, disconnections from the central control system and malfunctions, (xii) remote activations and disabling, and (xiii) any other information required by Commission regulations. The Commission shall provide operators with the necessary protocols to connect electronic gaming terminal and redemption terminals to the centralized control system upon approval by the Commission. No electronic gaming terminal or redemption terminal shall be placed in operation without first connecting to the centralized control system. A vendor that provides the centralized control system shall not be eligible to be licensed as an operator or retailer.

**58.1-4062. Requirements of operator licensees.**

A. No operator shall own, place, or operate an electronic gaming terminal unless it is approved by the Commission, and purchased or leased from a manufacturer or distributor. No contract between a distributor and a manufacturer or between an operator and a manufacturer shall grant the distributor or operator exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming terminal, electronic gaming terminal game, or redemption terminal in the Commonwealth.

B. No operator shall place or operate an electronic gaming terminal at any location except in the operator's warehouse facilities approved by the Commission, or retailer locations.

C. All operators shall comply with this article and the regulations of the Commission.

**58.1-4063. Requirements of retailers.**

A. The following persons are eligible to receive a retailer license: any person licensed by the Virginia Lottery pursuant to Chapter 31 of Agency 5 of Title 11 to offer and sell lottery games or products.

B. No retailer shall allow an electronic gaming terminal to be operated or placed upon the retailer location unless such electronic gaming terminals operated and placed by an operator pursuant to a use agreement.

C. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (18.2-340.15 et seq.) of Chapter 8 of Title 18.2, the primary business of a retailer shall not be the offering for play of electronic gaming terminals.

D. All retailers shall comply with this article and the regulations of the Commission.

**58.1-4064. Responsible gaming.**

A. In an effort to promote responsible gaming by players, pursuant to rules adopted by the Commission:

1. Operators shall post in the gaming area in a conspicuous place a sign 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. Operators shall provide informational materials in the gaming area on the dangers associated with problem gambling;

3. If the retailer holds a license from the Virginia Alcoholic Beverage Control Authority to serve alcoholic beverages, the retailer shall train its employees to identify patrons who have consumed excessive amounts of alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and

4. Operators and retailers shall comply with regulations regarding player self-exclusion programs adopted by the Commission.

B. Nothing contained in this section shall be construed to create any cause of action against the Commission for the failure of an operator to comply with the requirements of this section.

**58.1-4065. Local regulation of electronic gaming terminals.**

A. A municipality may adopt and enforce a local ordinance prohibiting the manufacturing, distributing, operating, placing, hosting, and playing of electronic gaming devices within such municipality, provided that such ordinance is passed no later than six months after the effective date of this article. If the municipality

548 passes such an ordinance and later chooses to allow the manufacturing, distributing, operating, placing,  
549 hosting, and playing of electronic gaming devices within such municipality, the municipality may pass an  
550 ordinance to that effect; however, such municipality shall thereafter be prohibited from passing any  
551 ordinance to prohibit any activities authorized under this article.

552 B. A county may adopt and enforce a local ordinance prohibiting the manufacturing, distributing,  
553 operating, placing, hosting, and playing of electronic gaming terminals within the unincorporated area of  
554 such county, provided that such ordinance is adopted by such county no later than six months after the  
555 effective date of this article. If the county adopts such an ordinance and later chooses to allow the  
556 manufacturing, distributing, operating, placing, hosting, and playing of electronic gaming terminals within  
557 the unincorporated areas of such county, the county may pass an ordinance to that effect; however, such  
558 county shall thereafter be prohibited from passing any ordinance to prohibit any activities authorized under  
559 this article.

560 C. No license, permit, license fee, permit fee, sticker fee, or tax shall be required or imposed by any  
561 municipality or county upon an electronic gaming terminal, electronic gaming terminal game, redemption  
562 device, or ancillary equipment, manufacturer, distributor, operator, or retailer relating to the ownership,  
563 placement, transfer, sale, use, play, or operation of electronic gaming terminals, electronic gaming terminal  
564 games, redemption device, or ancillary equipment.

565 **58.1-4066. Adjusted gross gaming revenue tax.**

566 A. 1. An adjusted gross gaming revenue tax of Twenty Percent (20%) is hereby imposed.

567 2. The adjusted gross gaming revenue tax imposed pursuant to this section shall not apply to any activity  
568 regulated under Article 2 ( **58.1-4030 et seq.**) of this chapter or Chapter 41 ( **58.1-4100 et seq.**).

569 B. The adjusted gross gaming revenue tax imposed pursuant to this section shall be collected and remitted  
570 by the operator to the Commission pursuant to rules established by Commission. The operator shall collect  
571 and deposit all adjusted gross gaming revenue tax in a separate account in compliance with rules established  
572 by the Commission.

573 C. The adjusted gross gaming revenue tax collected by the Commission pursuant to this section shall be  
574 distributed pursuant to **58.1-4067**.

575 D. After the remittance of adjusted gross gaming revenue tax by the operator, the remaining adjusted  
576 gross gaming revenue shall be divided between that operator and the retailer equally, which shall be  
577 disbursed by the operator pursuant to rules established by the Commission.

578 **58.1-4067. Distribution of adjusted gross gaming revenue tax.**

579 A. The Commission shall allocate adjusted gross gaming revenue tax collected pursuant to **58.1-4066** as  
580 follows:

581 1. Fifteen percent (15%) to the locality or county in which the electronic gaming terminal is located;

582 2. One percent (1%) to the Problem Gambling Treatment and Support Fund established pursuant to  
583 **37.2-314.2**;

584 3. Four percent (4%) to the Commission, from which amount a sum sufficient shall be appropriated to  
585 fund its operations related to the administration and regulation of electronic gaming terminals pursuant to  
586 this article;

587 4. Twenty percent (20%) to the I-81 Corridor Improvement Plan Fund established pursuant to  
588 \_\_\_\_\_;

589 5. Ten percent (10%) to Virginia Law Enforcement Support Fund established pursuant to  
590 \_\_\_\_\_;

591 6. Twenty-five percent (25%) to the State office of Rural Health at the Virginia Department of Health to  
592 support the implementation of the Virginia Rural Health Plan.;

593 7. Twenty-five percent (25%) to the Child Care Subsidy Program and preschool programs for at-risk  
594 three and four year old children;

595 B. Allocation of funds by the Commission pursuant to this section shall occur no later than 60 days after  
596 such funds are collected, and only after the Commission has verified the accuracy of the collected balances.

597 **58.1-4068. Illegal manufacturing, distributing, or operating; penalty.**

598 A. No person shall:

599 1. Manufacture, distribute, transport, possess, sell or lease to any person an electronic gaming terminal  
600 or major components or parts, including software and hardware, for an electronic gaming terminal in the  
601 Commonwealth without a manufacturer, distributor or operator license issued by the Commission.

602 2. Purchase, own, operate, possess or place in the Commonwealth electronic gaming terminal, or  
603 maintain and service such devices without an operator license issued by the Commission.

604 3. Own or operate a retailer location where one or more electronic gaming terminals are made available  
605 for play by the public without a retailer license issued by the Commission.

606 4. Offer or provide for play by any person one or more electronic gaming terminals without a retail  
607 license issued by the Commission.

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

609 **58.1-4069. Underage play prohibited; penalty.**

A. No person shall play or operate any electronic gaming terminal unless such person is 21 years of age or older.

B. No person who is not 21 years of age or older shall redeem any ticket generated from an electronic gaming terminal.

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

**58.1-4070. Prohibited acts by retailer; penalty.**

A. No retailer shall:

1. Permit any person who is not 21 years of age or older to play or operate any electronic gaming terminal;

2. Give any reward for the play of an electronic gaming terminal that is not authorized by this article; or

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

4. The Commission shall: (a) impose a fine on a retailer for a violation of this section of up to \$1,000 for any first violation in any consecutive twelve month period; (b) impose a fine on a retailer for violation of this section of up to \$5,000 for any second violation in any consecutive twelve month period; and (c) impose a suspension of the retailers license for up to one year for violation of this section for any third violation in any consecutive twelve month period.

B. No retailer shall:

1. Solicit, request, offer or accept any inducement from an operator.

2. The Commission shall: (a) impose a suspension of the retailers license for up to one year for the first violation of this section; and, (b) revoke the retailers license for any second or subsequent violation of this section.

C. No operator shall:

1. Solicit, request, provide, pay, transfer, offer or accept any inducement from a retailer.

2. The Commission shall: (a) impose a suspension of the operators license for up to one year for the first violation of this section; and, (b) revoke the operators license for any second or subsequent violation of this section.

**58.1-4071. Illegal tampering with electronic gaming devices; penalty.**

No person other than a manufacturer, distributor or operator 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.

**58.1-4072. Conspiracies and attempts to commit violations; penalty.**

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

B. Any person who attempts to commit any act prohibited by this article 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.

**58.1-4073. Exclusion from the applicability of this article.**

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

**58.1-4074. Certain provisions in Article 1 ( 58.1-4000 et seq.) to apply, mutatis mutandis.**

Except as provided in this article, the provisions of Article 1 ( 58.1-4000 et seq.) shall apply mutatis mutandis to electronic gaming devices under this article. The Commission shall promulgate regulations to interpret and clarify the applicability of Article 1 to this article.

**NOTE TO DRAFT:**

*The following amendments to existing Virginia law are necessary to provide for effective enforcement of the Commonwealth's anti-gambling statutes. Highlighted portion reflects the proposed amendatory language.*

**1. Amendment to VA Code Ann. § 2.2-511**

**§ 2.2-511. Criminal cases.**

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the

Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2, (xv) *with the concurrence of the Virginia Gaming Commission, violations of Chapter 40 of Title 58.1 Article 3, (xvi) with the concurrence of the local attorney for the Commonwealth, violations of chapter 8 of Title 18.2, Article 1.*

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall attach when the appellate court receives the record after a notice of appeal has been filed with the clerk of the circuit court noting an appeal to the Court of Appeals or the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth upon receipt of the record in the appellate court, unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal. However, in an appeal regarding bail, bond, or recognizance pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2 or subsection B of § 19.2-398, the attorney for the Commonwealth who prosecuted the underlying criminal case shall continue to represent the Commonwealth on appeal.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

**2. Amendment to VA Code Ann. § 2.2-510. Employment of special counsel generally.**

No special counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court except in the following cases:

1. When the Governor determines that, because of the nature of the legal service to be performed, the Attorney General's office is unable to render such service, then the Governor shall issue an exemption order stating with particularity the facts and reasons leading to the conclusion that the Attorney General's office is unable to render such service. The Governor may then employ special counsel to render such service as he may deem necessary and proper. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department to be represented or whose members, officers, inspectors, investigators, or other employees are to be represented pursuant to this section.

2. In cases of legal services in civil matters to be performed for the Commonwealth, where it is impracticable or uneconomical for the Attorney General to render such service, he may employ special counsel whose compensation shall be paid out of the appropriation for the Attorney General's office.

3. In cases of legal services in civil matters to be performed for any state department, institution, division, commission, board, bureau, agency, entity, official, member of the General Assembly, justice of the Supreme Court, or judge of any circuit court or district court where it is impracticable or uneconomical for the Attorney General's office to render such service, special counsel may be employed but only as set forth in subsection C of § 2.2-507, upon the written recommendation of the Attorney General, who shall approve all requisitions drawn upon the Comptroller for warrants as compensation for such special counsel before the Comptroller shall have authority to issue such warrants.

4. In cases where the Attorney General certifies to the Governor that he is unable to render certain legal services, the Governor may employ special counsel or other assistance to render such services as may be

necessary.

5. *In cases involving violations of Chapter 40 of Title 58.1 Article 3 and violations of Chapter 8 of Title 18.2, Article 1 where the Attorney General determines that it is impracticable or uneconomical for the Attorney General's office to render service, special counsel may be employed whose compensation shall be paid out of the Special Gaming Enforcement Fund created pursuant to Chapter 40 of Title 58.1, Article 3, Section 58.1-4050.*

### **3. Amendment to VA Code Ann Section 18.2-325**

#### **§ 18.2-325. Definitions.**

1. "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 *determined by any element of chance, regardless of whether the outcome is partially or predominately determined by skill of the player* ~~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 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, 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. "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 *device*, machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those *that require the direct or indirect payment of consideration in any form, including but not limited to* ~~dependent upon the insertion of a coin, currency, ticket, token or other similar object, or by depositing consideration in any such form with the operator or owner of the device for the~~ *their* operation of such device, 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 *any element of chance and regardless of whether the outcome may also be partially or predominantly based on skill 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 *device* ~~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 *regardless of whether if they indicate to the player before the play of the device beforehand the definite or likely result of one or more operations of the game to be played on the device 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. "Gambling ~~device~~ *Skill game*" does not include any amusement device, as defined in § 18.2-334.6.

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic

Beverage Control Authority, *the Virginia Gaming Commission*, or the Virginia Racing Commission.

**4. Amendment to VA Code Ann. § 18.2-326**

**§ 18.2-326. Penalty for illegal gambling.**

Except as otherwise provided in this article, any person who illegally gambles or engages in interstate gambling as defined in § 18.2-325 shall be guilty of a *Class 6 felony* ~~Class 3 misdemeanor~~. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.

However, if any person makes, places, or receives any bet or wager of money or other thing of value on a horse race in the Commonwealth, whether the race is inside or outside the limits of the Commonwealth at any place or through any means other than (i) at a racetrack licensed by the Virginia Racing Commission pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or (ii) at a satellite facility or through advance deposit account wagering, as those terms are defined in § 59.1-365, licensed by the Virginia Racing Commission pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, such person shall be guilty of a Class 1 misdemeanor. For the purposes of this paragraph, venue shall be in any county or city in which any act was performed in furtherance of any course of conduct constituting illegal gambling.

**5. Amendment to VA Code Ann. §18.2-329**

**§ 18.2-329. Owners, etc., of gambling place permitting its continuance; penalty.**

If the owner, lessee, tenant, occupant or other person in control of any place or conveyance, knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified a law-enforcement officer of the presence of such illegal gambling activity, he shall be guilty of a *Class 6 felony* ~~Class 1 misdemeanor~~.

**6. Amendment to VA Code Ann. §18.2-330**

**§ 18.2-330. Accessories to gambling activity; penalty.**

Any person, firm or association of persons, other than those persons specified in other sections of this article, who knowingly aids, abets or assists in the operation of an illegal gambling enterprise, activity or operation, shall be guilty of a *Class 6 felony* ~~Class 1 misdemeanor~~.

**7. VA Code Ann. § 18.2-331**

**§ 18.2-331. Illegal possession, etc., of gambling device; penalty.**

A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Violation of any provision of this section shall constitute a *Class 6 felony* ~~Class 1 misdemeanor~~.

**8. VA Code Ann. § 18.2-331.1**

**§ 18.2-331.1. Operation of gambling devices at unregulated locations; civil penalty.**

A. A person who conducts, finances, manages, supervises, directs, sells, or owns a gambling device that is located in an unregulated location is guilty of illegal possession of gambling device. Violation of this shall constitute a *Class 6 felony*. In addition to any other penalty provided by law, any person who conducts, finances, manages, supervises, directs, sells, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000 for each 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 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.