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HOUSE BILL NO. 271

Offered January 14, 2026

A BILL to amend and reenact §§ 2.2-203.3, 2.2-401.01, 2.2-511, 2.2-614.3, 2.2-3705.3, as it is currently effective and as it shall become effective, 2.2-3705.6, 2.2-3705.7, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4002, 2.2-4346, 3.2-102, 3.2-6201, 4.1-100, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-226, 6.2-603.1, 8.01-216.3, 8.01-534, 11-16.1, 11-16.2, 15.2-912.2, 15.2-2825, 18.2-513, 19.2-66, 19.2-215.1, 19.2-389, as it is currently effective and as it shall become effective, 19.2-390, 22.1-140.1, 37.2-304, 37.2-314.2, 52-53, 52-54, 58.1-3, 58.1-439, 58.1-460, 58.1-3510, 58.1-3732.1, and 59.1-542.1 of the Code of Virginia; to amend the Code of Virginia by adding a title numbered 29.5, containing a subtitle numbered I, consisting of chapters numbered 1 through 6, containing sections numbered 29.5-100 through 29.5-650, a subtitle numbered II, consisting of chapters numbered 7 and 8, containing sections numbered 29.5-700 through 29.5-814, and a subtitle numbered III, consisting of a chapter numbered 9, containing sections numbered 29.5-900 through 29.5-913; and to repeal §§ 2.2-2455 and 2.2-2456, Article 1 (§§ 18.2-325 through 18.2-340) of Chapter 8 of Title 18.2, Article 1.1:1 (§§ 18.2-340.15 through 18.2-340.37) of Chapter 8 of Title 18.2, Chapter 40 (§§ 58.1-4000 through 58.1-4048) of Title 58.1, Chapter 41 (§§ 58.1-4100 through 58.1-4141) of Title 58.1, Chapter 29 (§§ 59.1-364 through 59.1-405) of Title 59.1, Chapter 29.1 (§ 59.1-405.1) of Title 59.1, and Chapter 51 (§§ 59.1-556 through 59.1-570) of Title 59.1 of the Code of Virginia, relating to Virginia Gaming Commission established; penalties.

Patrons—Krizek, Carroll and Glass

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-203.3, 2.2-401.01, 2.2-511, 2.2-614.3, 2.2-3705.3, as it is currently effective and as it shall become effective, 2.2-3705.6, 2.2-3705.7, 2.2-3711, as it is currently effective and as it shall become effective, 2.2-3802, 2.2-4002, 2.2-4346, 3.2-102, 3.2-6201, 4.1-100, 4.1-206.3, as it is currently effective and as it shall become effective, 4.1-226, 6.2-603.1, 8.01-216.3, 8.01-534, 11-16.1, 11-16.2, 15.2-912.2, 15.2-2825, 18.2-513, 19.2-66, 19.2-215.1, 19.2-389, as it is currently effective and as it shall become effective, 19.2-390, 22.1-140.1, 37.2-304, 37.2-314.2, 52-53, 52-54, 58.1-3, 58.1-439, 58.1-460, 58.1-3510, 58.1-3732.1, and 59.1-542.1 of the Code of Virginia; to amend the Code of Virginia by adding a title numbered 29.5, containing a subtitle numbered I, consisting of chapters numbered 1 through 6, containing sections numbered 29.5-100 through 29.5-650, a subtitle numbered II, consisting of chapters numbered 7 and 8, containing sections numbered 29.5-700 through 29.5-814, and a subtitle numbered III, consisting of a chapter numbered 9, containing sections numbered 29.5-900 through 29.5-913, as follows:

§ 2.2-203.3. Position established; agencies for which responsible; additional duties.

The position of Secretary of Agriculture and Forestry (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Forestry, Department of Agriculture and Consumer Services, *and* Virginia Agricultural Council~~, and Virginia Racing Commission~~. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

§ 2.2-401.01. Liaison to Virginia Indian tribes; Ombudsman for Tribal Consultation; Virginia Indigenous People's Trust Fund.

A. The Secretary of the Commonwealth shall:

1. Serve as the Governor's liaison to the Virginia Indian tribes;

2. Designate an Ombudsman for Tribal Consultation pursuant to subsection B; and

3. Report annually on the status of Indian tribes in Virginia.

B. The Secretary of the Commonwealth shall designate, in consultation with and upon the advice of federally recognized Tribal Nations in the Commonwealth, an Ombudsman for Tribal Consultation (the Ombudsman). The Ombudsman shall:

1. Facilitate communication between federally recognized Tribal Nations in the Commonwealth and relevant state agencies and local governments for consultation on environmental, cultural, and historical permits and reviews;

2. Develop a list of localities in ongoing consultation with the federally recognized Tribal Nations in which federally recognized Tribal Nations in the Commonwealth shall be consulted regarding actions and projects pursuant to §§ 10.1-104.02, 10.1-1186.3:1, 10.1-2205.1, and 28.2-104.01;

3. Assist the Department of Environmental Quality, the Department of Conservation and Recreation, the

Department of Historic Resources, and the Virginia Marine Resources Commission in developing policies and procedures to ensure meaningful and appropriate consultation with federally recognized Tribal Nations in the Commonwealth regarding permits and reviews; and

4. Make recommendations to the Governor about additional permits and reviews that, in the opinion of the Ombudsman, should require consultation with federally recognized Tribal Nations in the Commonwealth.

C. The Secretary of the Commonwealth may establish a Virginia Indian advisory board to assist the Secretary in reviewing applications seeking recognition as a Virginia Indian tribe and to make recommendations to the Secretary, the Governor, and the General Assembly on such applications and other matters relating to recognition as follows:

1. The members of any such board shall be composed of no more than seven members to be appointed by the Secretary as follows: at least three of the members shall be members of Virginia recognized tribes to represent the Virginia Indian community, and one nonlegislative citizen member shall represent the Commonwealth's scholarly community. The Librarian of Virginia, the Director of the Department of Historic Resources, and the Superintendent of Public Instruction, or their designees, shall serve ex officio with voting privileges. Nonlegislative citizen members of any such board shall be citizens of the Commonwealth. Ex officio members shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. The Secretary of the Commonwealth shall appoint a ~~chairperson~~ *chair* from among the members for a two-year term. Members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

2. Any such board shall have the following powers and duties:

a. Establish guidance for documentation required to meet the criteria for full recognition of the Virginia Indian tribes that is consistent with the principles and requirements of federal tribal recognition;

b. Establish a process for accepting and reviewing all applications for full tribal recognition;

c. Appoint and establish a workgroup on tribal recognition composed of nonlegislative citizens at large who have knowledge of Virginia Indian history and current status. Such workgroup (i) may be activated in any year in which an application for full tribal recognition has been submitted and in other years as deemed appropriate by any such board and (ii) shall include at a minimum a genealogist and at least two scholars with recognized familiarity with Virginia Indian tribes. No member of the workgroup shall be associated in any way with the applicant. Members of the workgroup shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825;

d. Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the board;

e. Make recommendations to the Secretary for full tribal recognition based on the findings of the workgroup and the board; and

f. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of this subsection.

D. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Indigenous People's Trust 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, any tax revenue accruing to the Fund pursuant to § ~~58.1-4125~~ *29.5-327*, 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. After payment of the costs of administration of the Fund, moneys in the Fund shall be used to make disbursements on a quarterly basis in equal amounts to each of the six Virginia Indian tribes federally recognized under P.L. 115-121 of 2018. 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 Secretary of the Commonwealth.

§ 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*; and (xvii) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Title 29.5*.

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.

§ 2.2-614.3. Charitable organization; certain government action prohibited.

A government agency shall not require any charitable organization to:

1. Disclose individual demographic information concerning employees, officers, directors, trustees, members, or owners, without the prior written consent of such individuals;

2. Disclose individual demographic information concerning any person, or the employees, officers, directors, trustees, members or owners of any entity that has received monetary or in-kind contributions from or contracted with a charitable organization without the prior written consent of such individuals;

3. Include in the membership of the governing board or officers of the charitable organization an individual based on his demographic characteristics;

4. Prohibit an individual from serving as a board member or officer based upon the individual's familial relationship to other board members or officers or to a donor;

5. Include in the membership of the governing board one or more individuals who do not share a familial relationship with other board members or officers or with the donor; or

6. Distribute its funds to or contract with any individual or entity based upon the demographic characteristics of the employees, officers, directors, trustees, members, or owners of the individual or entity, or based on populations, locations, or communities served by the individual or entity, except as a lawful condition on the expenditure of the funds imposed by the donor.

As used in this section:

"Charitable organization" means any nonstock corporate or other entity that has been granted tax-exempt status under § 509(a) of the Internal Revenue Code.

"Government agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government and any county, city, or town.

Nothing in this section shall prohibit a government agency from obtaining information from a charitable organization pursuant to a subpoena, civil investigative demand, or other compulsory process. Nothing in this section shall alter or limit the filing requirements applicable to charitable organizations under Chapter ~~8~~

~~(§ 18.2-325 et seq.) of Title 18.2~~ *2 (§ 29.5-200 et seq.) of Title 29.5* or Chapter 5 (§ 57-48 et seq.) of Title 57.

§ 2.2-3705.3. (Effective until July 1, 2026) Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, *the Virginia Gaming Commission*, the Virginia Lottery ~~pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1~~, the Virginia Racing Commission, ~~the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,~~ or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Virginia Cannabis Control Authority or by the Department of Health Professions or any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ ~~58.1-4014 through 58.1-4018~~ *29.5-713 and 29.5-803 through 29.5-807*, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published, or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body; or (viii) the Behavioral Health Commission. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names and personal contact information of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, "personal contact information" includes the complainant's home

or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3705.3. (Effective July 1, 2026) Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Cannabis Control Authority, *the Virginia Gaming Commission,* the Virginia Lottery ~~pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1~~, the Virginia Racing Commission, ~~the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,~~ or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Virginia Cannabis Control Authority or by the Department of Health Professions or any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations commissions. However, nothing in this subdivision shall prevent the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ ~~58.1-4014~~ ~~through~~ ~~58.1-4018~~ *29.5-713 and 29.5-803 through 29.5-807*, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published, or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

7. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a state agency or by any public institution of higher education; (vi) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; (vii) the auditors, appointed by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department, or program of such body; or (viii) the Behavioral Health Commission. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

8. The names and personal contact information of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body. As used in this subdivision, "personal contact information" includes the complainant's home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

10. Information furnished to or prepared by the Board of Education pursuant to subsection F of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators.

The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

12. Information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses, or other individuals involved in the investigation.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial, or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding,

the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the ~~Department of Agriculture and Consumer Services~~ *Virginia Gaming Commission* (i) pursuant to subsection E of § ~~18.2-340.34~~ *29.5-225* and (ii) pursuant to regulations promulgated by the ~~Commissioner of Agriculture and Consumer Services~~ *Virginia Gaming Commission*

Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including~~, but not limited to,~~ financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the

evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including~~, but not limited to,~~ financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

35. Trade secrets, proprietary information, or financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort Monroe.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

36. Information of a proprietary or confidential nature, including trade secrets, employee compensation information, balance sheets and financial statements that are not available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Department of Workforce Development and Advancement (the Department) for the purpose of sponsoring, implementing, and operating (i) an apprenticeship program approved by the Department or (ii) a similar lawful workforce development or public-private partnership approved by the Department that assists the Department in fulfilling its mission and objectives and whose workforce development initiative could not advance without such exemption, as determined by the Commissioner of the Department and the Secretary of Labor. However, nothing in this subdivision shall be construed to allow the withholding of the name and contact information of a private or nongovernmental entity sponsoring, implementing, or operating the apprenticeship program, the location of the program, the occupations offered by the program, or the terms and conditions of a contract or agreement entered into by such private or nongovernmental entity.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104. "Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned, or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to

a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner is $1 million or greater, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including ~~e-mail~~ *email* address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities or by the Department of Workforce Development and Advancement concerning identifiable individuals younger than 18 years of age. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local

retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan; and

b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Commonwealth Savers Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by former § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would

reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia ~~Lottery~~ *Gaming Commission* in connection with the voluntary exclusion program administered pursuant to § ~~58.1-4015.1~~ *29.5-118*.

37. Personal information provided to or obtained by the Virginia ~~Lottery~~ *Gaming Commission* concerning the identity of any person reporting prohibited conduct pursuant to § ~~58.1-4043~~ *29.5-104*.

§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests, and ~~fund-raising~~ *fundraising* activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon

written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions, and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § ~~58.1-4007~~ *29.5-707* regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration, or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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

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

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

value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

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

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

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

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

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

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

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent

predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

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

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

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

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a

child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia ~~Lottery~~ *Gaming Commission* Board conducted pursuant to § ~~58.1-4105~~ *29.5-305* regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia ~~Lottery~~ *Gaming Commission* Board in an appeal conducted pursuant to § ~~58.1-4007~~ *29.5-104* regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

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

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

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

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

§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

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

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

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions, and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § ~~58.1-4007~~ *29.5-707* regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration, or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension

of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

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

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the

Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

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

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

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

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

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

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

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

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia ~~Lottery~~ *Gaming Commission* Board conducted pursuant to § ~~58.1-4105~~ *29.5-305* regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia ~~Lottery~~ *Gaming Commission* Board in an appeal conducted pursuant to § ~~58.1-4007~~ *29.5-104* regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

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

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

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

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

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;

2. Which may exist in publications of general circulation;

3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the ~~Internet~~ *internet* pursuant to § 9.1-913;

4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, *the Virginia Gaming Commission,* the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic Beverage Control Authority;

7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:

a. The Department of State Police;

b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

c. Police departments of cities, counties, and towns;

d. Sheriff's departments of counties and cities;

e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

f. The Division of Capitol Police.

8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;

15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of

§ 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

§ 2.2-4002. Exemptions from chapter generally.

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Wildlife Resources in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional, or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion, and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales, and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing, and differential.

8. The Virginia Resources Authority.

9. Agencies expressly exempted by any other provision of this Code.

10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.

11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.

12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.

14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.

16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its ~~duly appointed~~ stewards, *employed pursuant to § 29.5-605,* or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the *Virginia Racing* Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending, or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending, or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

24. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

25. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any

training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications, or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval, or police functions.

7. The selection, tenure, dismissal, direction, or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers, or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish, or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and any operating procedures for review of the deaths of persons with a developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant to § 37.2-314.1.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § ~~59.1-372~~ *29.5-611*.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the ~~Department of Agriculture and Consumer Services~~ *Virginia Gaming Commission* for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with ~~Article 1.1:1 (§ 18.2-340.15 et seq.) of~~ Chapter ~~8~~ *2 (§ 29.5-200 et seq.)* of Title ~~18.2~~ *29.5* and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

§ 2.2-4346. Other exemptions for certain transactions.

The following public bodies may enter into contracts as provided in this section.

A. Contracts for certain essential election materials and services are exempted from the requirements of Articles 1 (§ 2.2-4300 et seq.), 2 (§ 2.2-4303 et seq.), and 5 (§ 2.2-4357 et seq.) of this chapter pursuant to § 24.2-602.

B. Any local school board may authorize any of its public schools or its school division to enter into contracts providing that caps and gowns, photographs, class rings, yearbooks, and graduation announcements will be available for purchase or rental by students, parents, faculty, or other persons using nonpublic money through the use of competitive negotiation as provided in this chapter; competitive sealed bidding is not necessarily required for such contracts. The Superintendent of Public Instruction may provide assistance to public school systems regarding this chapter and other related laws.

C. The Virginia ~~Racing~~ *Gaming* Commission, *with the advice of, in consultation with, and with the consent of the Virginia Racing Commission,* may designate an entity to administer and promote the Virginia Breeders Fund created pursuant to § ~~59.1-372~~ *29.5-611* without competitive procurement.

§ 3.2-102. General powers and duties of the Commissioner.

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law~~,~~ ~~including~~ ~~those~~ ~~prescribed~~ ~~in~~ ~~Title~~ ~~59.1~~. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; work with other state agencies to preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products;

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section;

3. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for Virginia breweries and limited breweries. Such corporation shall provide wholesale beer distribution services for Virginia breweries and limited breweries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, (i) two of whom shall be an owner or manager of a Virginia beer wholesale licensee, (ii) one of whom shall be an owner or manager of a brewery or limited brewery licensee, and (iii) one of whom shall be an owner or manager of a brewery or limited brewery licensee that is not served by a wholesaler at the time such owner or manager is appointed to the board of directors. In making appointments to the board of directors, the Board shall consider nominations submitted by the Virginia Beer Wholesalers Association regarding members listed in clause (i) and nominations submitted by the Virginia Craft Brewers Guild regarding members listed in clauses (ii) and (iii). At least annually, such corporation shall be required to report to the Commissioner on its activities, including reporting the quantity of beer distributed for each brewery or limited brewery licensee during the preceding year. The Commissioner shall report such information to the General Assembly. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et

seq.) shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; *and*

4. ~~Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations; and~~

~~5.~~ Ensure that the Department compiles and publishes the annual report relating to foreign adversary ownership of agricultural land required under § 55.1-509.

§ 3.2-6201. Horse racing excluded.

The provisions of this chapter shall not apply to horse racing, as that term is defined ~~by~~ *in* § ~~59.1-365~~ *29.5-601*.

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but ~~shall~~ *does* not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless ~~Internet~~ *internet* services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to ~~Article 1.1:1 (§ 18.2-340.15 et seq.) of~~ Chapter ~~8~~ *2 (§ 29.5-200 et seq.)* of Title ~~18.2~~ *29.5* in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a winery or farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the winery or farm winery licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a winery or farm winery shall be considered to be wine owned and produced by the winery or farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the winery or farm winery for its services. A winery licensee may utilize contract winemaking services only for the manufacture or processing of wine of which no less than 90 percent of the grapes, fruits, and other agricultural products used to make such wine are grown in the Commonwealth.

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment or cooperative located in the Commonwealth on land zoned agricultural that has (a) a vineyard, orchard, or similar growing area that produces fruits or other agricultural products used to manufacture the wine of such farm winery, subject to the requirements set forth in § 4.1-219, and (b) facilities for fermenting and bottling wine on the premises where such farm winery manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the term "cooperative" means a cooperative formed by an association of individuals for the purpose of manufacturing wine. In determining whether a cooperative licensed as a farm winery has met the requirements set forth in clause (i), the Board shall consider all land in the Commonwealth that is owned or leased by a member of the cooperative. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a ~~government~~ ~~registered~~ *government-registered* national, state, or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting, and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this subtitle.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, ~~Internet~~ *internet* or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives, or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Performing arts facility" means an indoor or outdoor amphitheater, arena, multipurpose theater, or similar facility at which live musical, dance, theatre, or similar performances, the types of which are approved by the Authority, are performed, provided that the facility has stationary stadium or similar seating for more than 500 persons.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use, or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings, or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but ~~shall~~ *does* not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Sports facility" means a coliseum, stadium, racetrack, or similar facility at which professional sports, as defined in § ~~58.1-4030~~ *29.5-400*, or similar events, the types of which are approved by the Authority, are conducted.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-206.3. (Effective until July 1, 2026) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in dining areas and other designated areas of such restaurant or off-premises consumption. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for on-premises consumption in such designated areas, bedrooms, and other private rooms or off-premises consumption and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises or off-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, for off-premises consumption or for on-premises consumption in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under ~~Article~~ *Chapter* 3 (§ ~~58.1-4108~~ *29.5-300* et seq.) ~~of Chapter 41~~ of Title ~~58.1~~ *29.5*, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to (i) persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (a) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (b) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage sports facility licenses to persons operating a sports facility or food concessions at a sports facility, which shall authorize the licensee to sell mixed beverages during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii)

in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for on-premises consumption in dining areas of the restaurant or off-premises consumption. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to persons operating a performing arts facility or food concessions at a performing arts facility.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in

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paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

12. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

13. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

14. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under ~~Article~~ *Chapter* 3 (§ ~~58.1-4108~~ *29.5-300* et seq.) ~~of Chapter 41~~ of Title ~~58.1~~ *29.5*.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and

consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any performing arts facility.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of

the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the ~~Internet~~ *internet* from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

6. Third-party delivery licenses, which shall carry the privileges and limitations set forth in § 4.1-212.2.

§ 4.1-206.3. (Effective July 1, 2026) Retail licenses.

A. The Board may grant the following mixed beverages licenses:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with no fewer than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms, and other private rooms of such hotel or motel, such licensee may (a) sell and serve mixed beverages for consumption in such designated areas, bedrooms, and other private rooms and (b) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit, or profit club exclusively for its members and their guests, or members of another private, nonprofit, or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to (1) sell and serve mixed beverages for on-premises consumption and (2) sell spirits that are packaged in original closed containers with a maximum capacity of two fluid ounces or 50 milliliters and purchased from the Board for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

If the restaurant is located on the premises of and operated by a culinary lodging resort, such license shall authorize the licensee to (A) sell alcoholic beverages for on-premises consumption, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, in areas upon the licensed premises approved by the Board and other designated areas of the resort, including outdoor areas under the control of the licensee, and (B) permit the possession and consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in bedrooms and private guest rooms.

If the restaurant is located on the premises of a mixed beverage casino licensee owned by an operator licensed under ~~Article~~ *Chapter* 3 (§ ~~58.1-4108~~ *29.5-300* et seq.) ~~of Chapter 41~~ of Title ~~58.1~~ *29.5*, such mixed beverage restaurant license shall authorize the licensee to sell alcoholic beverages for on-premises consumption on the licensed premises of the restaurant during all hours of operation of the mixed beverage casino licensee. Any alcoholic beverages purchased from such restaurant may be (I) taken onto the premises of the mixed beverage casino licensee and (II) possessed or consumed in areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, conference rooms, private rooms, hotels, pools, marinas, or green spaces. Alcoholic beverages purchased from a restaurant pursuant to this subdivision shall be contained in glassware or a paper, plastic, or similar disposable container that clearly displays the name or logo of the restaurant from which the alcoholic beverage was purchased.

The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage carrier licenses to (i) persons operating a common carrier of passengers by train, boat, bus, or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth and (ii) financial institutions, subsidiaries of a financial institution, or persons approved by the applicable airport authority that have entered into a contract with a financial institution or subsidiary of a financial institution to operate a passenger lounge, which shall authorize the licensee to sell and serve mixed beverages in designated areas of a passenger lounge for ticketed air carrier passengers that is located within an airport in the Commonwealth. For purposes of supplying its

airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load alcoholic beverages onto the same airplanes and to transport and store alcoholic beverages at or in close proximity to the airport where the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (a) designate for purposes of its license all locations where the inventory of alcoholic beverages may be stored and from which the alcoholic beverages will be delivered onto airplanes of the air carrier and any such licensed express carrier and (b) maintain records of all alcoholic beverages to be transported, stored, and delivered by its authorized representative. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

For the purposes of this subdivision:

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Passenger lounge" means any restricted-access passenger waiting room or lounge leased to persons by the applicable airport authority in which food and beverage services are provided to ticketed passengers.

5. Annual mixed beverage sports facility licenses to persons operating a sports facility or food concessions at a sports facility, which shall authorize the licensee to sell mixed beverages during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

6. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

7. Annual mixed beverage performing arts facility licenses, which shall (i) authorize the licensee to sell, on the dates of performances or events, alcoholic beverages in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption in all seating areas, concourses, walkways, concession areas, similar facilities, and other areas upon the licensed premises approved by the Board and (ii) automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Such licenses may be granted to persons operating a performing arts facility or food concessions at a performing arts facility.

8. Combined mixed beverage restaurant and caterer's licenses, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision 1 and mixed beverage caterer pursuant to subdivision 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision 1 and mixed beverage caterer's license pursuant to subdivision 2. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

9. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas,

whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

10. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

11. Commercial lifestyle center licenses, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this subtitle and Board regulations.

12. Mixed beverage port restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons operating a business (i) that is primarily engaged in the sale of meals; (ii) that is located on property owned by the United States government or an agency thereof and used as a port of entry to or egress from the United States; and (iii) whose gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption or in closed containers for off-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

13. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open-door or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease, the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

14. Mixed beverage casino licenses, which shall authorize the licensee to (i) sell and serve mixed beverages for on-premises consumption in areas designated by the Board, after consultation with the mixed beverage casino licensee, without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) provide complimentary mixed beverages to patrons for on-premises consumption in private areas or restricted access areas designated by the Board, after consultation with the mixed beverage casino licensee. Designated areas may include any areas on the premises of the mixed beverage casino licensee, including entertainment venues, private rooms, conference rooms, hotels, pools, marinas, or green spaces. The granting of a license pursuant to this subdivision shall authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption and in closed containers for off-premises consumption in accordance with the provisions of this subdivision governing mixed beverages;

however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1. Notwithstanding any law or regulation to the contrary, a mixed beverage casino licensee may exercise the privileges of its license as set forth in this subdivision during all hours of operation of the casino gaming establishment; however, such licensee shall not sell wine or beer for off-premises consumption between the hours of 12 a.m. and 6 a.m.

A mixed beverage casino licensee may (a) provide patrons gifts of alcoholic beverages in closed containers for personal consumption off the licensed premises or in areas designated by the Board, after consultation with the mixed beverage casino licensee, and (b) enable patrons who participate in a loyalty or reward credit program to redeem credits for the purchase of alcoholic beverages for on-premises consumption. A summary of the operation of such loyalty or reward credit program shall be provided to the Board upon request.

A mixed beverage casino license may only be issued to a casino gaming establishment owned by an operator licensed under ~~Article~~ *Chapter* 3 (§ ~~58.1-4108~~ *29.5-300* et seq.) ~~of Chapter 41~~ of Title ~~58.1~~ *29.5*.

B. The Board may grant an on-and-off-premises wine and beer license to the following:

1. Hotels, restaurants, and clubs, which shall authorize the licensee to sell wine and beer (i) in closed containers for off-premises consumption or (ii) for on-premises consumption, either with or without meals, in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (a) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (b) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

2. Hospitals, which shall authorize the licensee to sell wine and beer (i) in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained or (ii) in closed containers for off-premises consumption.

3. Rural grocery stores, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption. No license shall be granted unless (i) the grocery store is located in any town or in a rural area outside the corporate limits of any city or town and (ii) it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this subtitle will be promoted by granting the license.

4. Coliseums, stadiums, and racetracks, which shall authorize the licensee to sell wine and beer during any event and immediately subsequent thereto to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at coliseums, stadiums, racetracks, or similar facilities.

5. Performing arts food concessionaires, which shall authorize the licensee to sell wine and beer during the performance of any event to patrons within all seating areas, concourses, walkways, or concession areas, or other areas approved by the Board (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such licenses may be granted to persons operating food concessions at any performing arts facility.

6. Exhibition halls, which shall authorize the licensee to sell wine and beer during the event to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities (i) in closed containers for off-premises consumption or (ii) in paper, plastic, or similar disposable containers or in single original metal cans for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. Such

licenses may be granted to persons operating food concessions at exhibition or exposition halls, convention centers, or similar facilities located in any county operating under the urban county executive form of government or any city that is completely surrounded by such county. For purposes of this subdivision, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Concert and dinner-theaters, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption or in closed containers for off-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served. Such licenses may be granted to persons operating concert or dinner-theater venues on property fronting Natural Bridge School Road in Natural Bridge Station and formerly operated as Natural Bridge High School.

8. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption or in closed containers for off-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.

9. Nonprofit museums, which shall authorize the licensee to sell wine and beer for on-premises consumption or in closed containers for off-premises consumption in areas approved by the Board. Such licenses may be granted to persons operating a nonprofit museum exempt from taxation under § 501(c)(3) of the Internal Revenue Code, located in the Town of Front Royal, and dedicated to educating the consuming public about historic beer products. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

C. The Board may grant the following off-premises wine and beer licenses:

1. Retail off-premises wine and beer licenses, which may be granted to a convenience grocery store, delicatessen, drugstore, gift shop, gourmet oyster house, gourmet shop, grocery store, or marina store as defined in § 4.1-100 and Board regulations. Such license shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, notwithstanding the provisions of § 4.1-308, to give to any person to whom wine or beer may be lawfully sold a sample of wine or beer for on-premises consumption; however, no single sample shall exceed four ounces of beer or two ounces of wine and no more than 12 ounces of beer or five ounces of wine shall be served to any person per day. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. With the consent of the licensee, farm wineries, wineries, breweries, distillers, and wholesale licensees or authorized representatives of such licensees may participate in such tastings, including the pouring of samples. The licensee shall comply with any food inventory and sales volume requirements established by Board regulation.

2. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

3. Confectionery licenses, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

D. The Board may grant the following banquet, special event, and tasting licenses:

1. Per-day event licenses.

a. Banquet licenses to persons in charge of private banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold; (ii) shall be limited to no more than one such fundraiser per year; and (iii) if conducting such fundraiser through an online meeting platform, may ship such wine, in accordance with Board regulations, in closed containers to persons located within the Commonwealth. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Mixed beverage special events licenses to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

c. Mixed beverage club events licenses to a club holding a wine and beer club license, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

d. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

2. Annual licenses.

a. Annual banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

b. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

c. Designated outdoor refreshment area licenses to a locality, business improvement district, or nonprofit organization, which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the designated outdoor refreshment area and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the designated outdoor refreshment area to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the designated outdoor refreshment area, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the designated outdoor refreshment area, the Board shall consult with the locality. Designated outdoor refreshment area licensees shall be limited to 16 events per year, and the duration of any event shall not exceed three consecutive days. However, the Board may increase the frequency and duration of events after adoption of an ordinance by a locality requesting such increase in frequency and duration. Such ordinance shall include the size and scope of the area within which such events will be held, a public safety plan, and any other considerations deemed necessary by the Board. Such limitations on the number of events that may be held shall not apply during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity; however, designated outdoor refreshment area licensees shall be subject to all other applicable provisions of this subtitle and Board regulations and shall provide notice to the Board regarding the days and times during which the privileges of the license will be exercised. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the designated outdoor refreshment area licensee. The designated outdoor refreshment area licensee shall post appropriate signage clearly demarcating for the public the boundaries of the event; however, no physical barriers shall be required for this purpose. The designated outdoor refreshment area licensee shall provide adequate security for the event to ensure compliance with the applicable provisions of this subtitle and Board regulations.

d. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic, or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. The granting of a license pursuant to this subdivision shall automatically authorize the licensee to obtain a license to sell and serve wine and beer for on-premises consumption; however, the licensee shall be required to pay the local fee required for such additional license pursuant to § 4.1-233.1.

e. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt, and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt, and steeplechase events, and (ii) exercised on no more than four calendar days per year.

f. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

E. The Board may grant a marketplace license to persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any customer per day, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. In order to be eligible for and retain a marketplace license, the applicant's business enterprise must (i) provide a single category of goods or services in a manner intended to create a personalized experience for the customer; (ii) employ staff with expertise in such goods or services; (iii) be ineligible for any other license granted by the Board; (iv) have an alcoholic beverage control manager on the licensed premises at all times alcohol is served; (v) ensure that all employees satisfy any training requirements imposed by the Board; and (vi) purchase all wine and beer to be served from a licensed wholesaler or the Authority and retain purchase records as prescribed by the Board. In determining whether to grant a marketplace license, the Board shall consider (a) the average amount of time customers spend at the business; (b) the business's hours of operation; (c) the amount of time that the business has been in operation; and (d) any other requirements deemed necessary by the Board to protect the public health, safety, and welfare.

F. The Board may grant the following shipper, bottler, and related licenses:

1. Wine and beer shipper licenses, which shall carry the privileges and limitations set forth in § 4.1-209.1.

2. Internet wine and beer retailer licenses, which shall authorize persons located within or outside the Commonwealth to sell and ship wine and beer, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine and beer may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

3. Bottler licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell, and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine and beer shipper's licenses; (ii) store such wine or beer on behalf of the owner; and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

5. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the ~~Internet~~ *internet* from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine and beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine and beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

§ 4.1-226. Grounds for which Board shall suspend or revoke licenses.

The Board shall suspend or revoke any license, other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it finds that:

1. A licensee has violated or permitted the violation of § ~~18.2-331~~ *29.5-907*, relating to the illegal

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possession of a gambling device, upon the premises for which the Board has granted a license for the sale of alcoholic beverages to the public.

2. In the licensed establishment of a mixed beverage licensee there (i) is entertainment of an obscene nature, entertainment commonly called stripteasing, topless entertaining, or entertainment that has employees who are not clad both above and below the waist or (ii) are employees who solicit the sale of alcoholic beverages. The provisions of clause (i) shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

3. A licensee has defrauded or attempted to defraud the Board, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a willful or knowing false representation of a material fact or has willfully deceived or attempted to deceive the Board, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent.

§ 6.2-603.1. Savings promotions.

A. As used in this section, unless the context requires a different meaning:

"Depository institution" means a bank, savings institution, or credit union that is subject to any provision of this title and that offers savings accounts, share accounts, certificates of deposit, or other savings products or programs.

"Nonqualifying account" means a savings account, share account, certificate of deposit, or other savings product or program offered by a depository institution that is not a qualifying account.

"Qualifying account" means a savings account, share account, share certificate, or other savings product or program offered by a depository institution through which depositors may obtain chances to win prizes in a savings promotion.

"Savings promotion" means a contest or promotion sponsored by a depository institution in which a chance of winning designated prizes is obtained by its depositors for the purposes of encouraging depositors to build and maintain savings deposits.

B. Any depository institution may sponsor a savings promotion in accordance with the provisions of this section, to the extent (i) the savings promotion is not prohibited by federal law or regulation and (ii) the savings promotion complies with the following requirements:

1. Participants in the savings promotion shall not be required to provide any consideration in order to obtain entries to win. For purposes of this subdivision, participants shall not be deemed to have provided consideration due to the requirement that they deposit a specified amount of money for a specified time period in a qualifying account in order to obtain entries to win, provided that:

a. The interest rate associated with any such qualifying account is not reduced when compared with other comparable nonqualifying accounts offered by any depository institution, to account for the possibility of depositors winning specified prizes; and

b. The depository institution does not charge a fee for participating in the savings promotion;

2. All fees charged in connection with a qualifying account shall be comparable with all fees charged in connection with other comparable nonqualifying accounts, if any, offered by the depository institution;

3. The savings promotion shall be conducted such that each entry in the savings promotion has an equal chance of being drawn;

4. Participants in the savings promotion shall not be required to be present at a prize drawing in order to win; and

5. The savings promotion is conducted in a manner that complies with the applicable requirements of Chapter 31 (§ 59.1-415 et seq.) of Title 59.1.

C. For purposes of ~~Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2~~ *Chapter 9 (§ 29.5-900 et seq.) of Title 29.5*, a savings promotion offered in accordance with this section shall not constitute illegal gambling or otherwise be deemed to entail the promotion of gambling or a lottery.

§ 8.01-216.3. False claims; civil penalty.

A. Any person who:

1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

2. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

3. Conspires to commit a violation of subdivision 1, 2, 4, 5, 6, 7, 8, or 9;

4. Has possession, custody, or control of property or money used, or to be used, by the Commonwealth and knowingly delivers, or causes to be delivered, less than all such money or property;

5. Has possession, custody, or control of an illegal gambling device, as defined in § ~~18.2-325~~ *29.5-900*, knowing such device is illegal, and knowingly conceals, avoids, or decreases an obligation to pay or transmit money to the Commonwealth that is derived from the operation of such device;

6. Manufactures for sale, sells, or distributes an illegal gaming device knowing that such device is or is

intended to be operated in the Commonwealth in violation of ~~Article 1 (§ 18.2-325 et seq.) or Article 1.1:1 (§ 18.2-340.15 et seq.) of~~ Chapter ~~8~~ *2 (§ 29.5-200 et seq.) or 9 (§ 29.5-900 et seq.)* of Title ~~18.2~~ *29.5*;

7. Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth, makes or delivers the receipt without completely knowing that the information on the receipt is true;

8. Knowingly buys or receives, as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or

9. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Commonwealth or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Commonwealth;

shall be liable to the Commonwealth for a civil penalty of not less than $10,957 and not more than $21,916, except that these lower and upper limits on liability shall automatically be adjusted to equal the amounts allowed under the Federal False Claims Act, 31 U.S.C. § 3729 et seq., as amended, as such penalties in the Federal False Claims Act are adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. § 2461 Note, P.L. 101-410), plus three times the amount of damages sustained by the Commonwealth.

A person violating this section shall be liable to the Commonwealth for reasonable attorney fees and costs of a civil action brought to recover any such penalties or damages. All such fees and costs shall be paid to the Attorney General's Office by the defendant and shall not be included in any damages or civil penalties recovered in a civil action based on a violation of this section.

B. If the court finds that (i) the person committing the violation of this section furnished officials of the Commonwealth responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information; (ii) such person fully cooperated with any Commonwealth investigation of such violation; (iii) at the time such person furnished the Commonwealth with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation; and (iv) the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages that the Commonwealth sustains because of the act of that person. A person violating this section shall also be liable to the Commonwealth for the costs of a civil action brought to recover any such penalty or damages.

C. For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information, (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information and require no proof of specific intent to defraud.

D. Except as provided in subdivision A 5, this section shall not apply to claims, records, or statements relating to state or local taxes.

§ 8.01-534. Grounds of action for pretrial levy or seizure or attachment.

A. It ~~shall be~~ *is* sufficient ground for an action for pretrial levy or seizure or an attachment that the principal defendant or one of the principal defendants:

1. Is a foreign corporation, or is not a resident of ~~this~~ *the* Commonwealth, and has estate or has debts owing to such defendant within the county or city in which the attachment is, or that such defendant being a nonresident of ~~this~~ *the* Commonwealth, is entitled to the benefit of any lien, legal or equitable, on property, real or personal, within the county or city in which the attachment is. The word "estate," as herein used, includes all rights or interests of a pecuniary nature which can be protected, enforced, or proceeded against in courts of law or equity;

2. Is removing or is about to remove himself out of ~~this~~ *the* Commonwealth with intent to change his domicile;

3. Intends to remove, ~~or~~ is removing, or has removed the specific property sued for, ~~or~~ his own estate, or the proceeds of the sale of his property, or a material part of such estate or proceeds, out of ~~this~~ *the* Commonwealth so that there will probably not be therein effects of such debtor sufficient to satisfy the claim when judgment is obtained therefor should only the ordinary process of law be used to obtain the judgment;

4. Is converting, is about to convert, or has converted his property of whatever kind, or some part thereof, into money, securities, or evidences of debt with intent to hinder, delay, or defraud his creditors;

5. Has assigned or disposed of, or is about to assign or dispose of, his estate, or some part thereof, with intent to hinder, delay, or defraud his creditors;

6. Has absconded or is about to abscond or has concealed or is about to conceal himself or his property to the injury of his creditors, or is a fugitive from justice;

7. Has conducted, financed, managed, supervised, directed, sold, or owned a gambling device that is located in an unregulated location pursuant to § ~~18.2-331.1~~ *29.5-908*;

8. Has violated any provision of law related to charitable gaming pursuant to ~~Article 1.1:1 (§ 18.2-340.15 et seq.) of~~ Chapter ~~8~~ *2 (§ 29.5-200 et seq.)* of Title ~~18.2~~ *29.5*.

The intent mentioned in subdivisions 4 and 5 may be stated either in the alternative or conjunctive.

B. It ~~shall~~ ~~be~~ *is* sufficient ground for an action for pretrial levy or seizure or an attachment if the specific personal property sought to be levied or seized:

1. Will be sold, removed, secreted, or otherwise disposed of by the defendant, in violation of an obligation to the plaintiff, so as not to be forthcoming to answer the final judgment of the court respecting the same; or

2. Will be destroyed, or materially damaged or injured if permitted to remain in the possession of the principal defendant or one of the principal defendants or other person or persons claiming under them.

C. In an action for rent, it also shall be a sufficient ground if there is an immediate danger that the property subject to the landlord's lien for rent will be destroyed or concealed.

§ 11-16.1. Exemption from the chapter.

This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter ~~41~~ *3* (§ ~~58.1-4100~~ *29.5-300* et seq.) of Title ~~58.1~~ *29.5* or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 11-16.2. Exemption; authorized sports betting.

This chapter shall not apply to any sports betting or related activity that is lawful under ~~Article~~ ~~2~~ ~~(§ 58.1-4030 et seq.) of~~ Chapter ~~40~~ *4 (§ 29.5-400 et seq.)* of Title ~~58.1~~ *29.5*.

§ 15.2-912.2. Proceeds exempt from local taxation.

No locality may impose a gross receipts, entertainment, admission, or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

The definitions set forth in § ~~18.2-340.16~~ *29.5-200* shall apply to this section.

§ 15.2-2825. Smoking in restaurants prohibited; exceptions; posting of signs; penalty for violation.

A. Effective December 1, 2009, smoking shall be prohibited and no person shall smoke in any restaurant in the Commonwealth or in any restroom within such restaurant, except that smoking may be permitted in:

1. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include the preparation or storage of food for catering services, pushcart operations, hotdog stands, and other mobile points of service;

2. Any outdoor area of a restaurant, with or without roof covering, at such times when such outdoor area is not enclosed in whole or in part by any screened walls, roll-up doors, windows, or other seasonal or temporary enclosures;

3. Any restaurants located on the premises of any manufacturer of tobacco products;

4. Any portion of a restaurant that is used exclusively for private functions, provided such functions are limited to those portions of the restaurant that meet the requirements of subdivision 5;

5. Any portion of a restaurant that is constructed in such a manner that the area where smoking may be permitted is (i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited. For the purposes of the preceding sentence, nothing shall be construed to require the creation of an additional public entrance in cases where the only public entrance to a restaurant in existence as of December 1, 2009, is through an outdoor area described in subdivision 2;

6. Any private club; and

7. Any portion of a facility licensed to conduct casino gaming pursuant to Chapter ~~41~~ *3* (§ ~~58.1-4100~~ *29.5-300* et seq.) of Title ~~58.1~~ *29.5* designated pursuant to the provisions of and that meets the requirements of § 15.2-2827. Any restaurant within a facility licensed to conduct casino gaming shall comply with the provisions of this section.

B. For the purposes of this section:

"Proprietor" means the owner, lessee, or other person who ultimately controls the activities within the restaurant. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Structurally separated" means a stud wall covered with drywall or other building material or other like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-impervious building material.

C. No individual who is wait staff or bus staff in a restaurant shall be required by the proprietor to work in any area of the restaurant where smoking may be permitted without the consent of such individual. Nothing in this subsection shall be interpreted to create a cause of action against such proprietor.

D. The proprietor of any restaurant shall:

1. Post signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited in accordance with this section; and

2. Remove all ashtrays and other smoking paraphernalia from any area in the restaurant where smoking is prohibited in accordance with this section.

E. Any proprietor of a restaurant who fails to comply with the requirements of this section shall be subject to the civil penalty of not more than $25.

F. No person shall smoke in any area of a restaurant in which smoking is prohibited as provided in this section. Any person who continues to smoke in such area after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

G. It shall be an affirmative defense to a complaint brought against a proprietor for a violation of this section that the proprietor or an employee of such proprietor:

1. Posted a "No Smoking" sign as required;

2. Removed all ashtrays and other smoking paraphernalia from all areas where smoking is prohibited;

3. Refused to seat or serve any individual who was smoking in a prohibited area; and

4. If the individual continued to smoke after an initial warning, asked the individual to leave the establishment.

H. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

I. Any local health department or its designee shall, while inspecting a restaurant as otherwise required by law, inspect for compliance with this section.

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

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

"Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et 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, 18.2-32.1, 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, 18.2-49, 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, 18.2-90, 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, 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 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, § 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,~~ 18.2-346, 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, 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.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, *29.5-904*, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order authorizing interception of communications.

A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to a judge of competent jurisdiction for an order authorizing the interception of wire, electronic, or oral communications by the Department of State Police, when such interception may reasonably be expected to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or 18.2-248.1, ~~any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1,~~ any felony violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.), Article 6 (§ 18.2-59 et seq.), or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, *any felony violation of Chapter 6 (§ 29.5-600 et seq.) of Title 29.5,* or any conspiracy to commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or monitoring of the interception by a police department of a county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the person or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic communication system, maintain an address or a post office box, or are making the communication within the territorial jurisdiction of the court.

2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the

authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an offense was committed, is being committed, or will be committed or the physical location of the oral communication to be intercepted is within the territorial jurisdiction of the court.

C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of a wire or electronic communication, such communication shall be deemed to be intercepted in the jurisdiction where the order is entered, regardless of the physical location or the method by which the communication is captured or routed to the monitoring location.

§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.

The functions of a multi-jurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

a. Title 10.1 for which punishment as a felony is authorized;

b. Section 13.1-520;

c. Sections 18.2-47 and 18.2-48;

d. Sections 18.2-111 and 18.2-112;

e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;

g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;

h. ~~Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, Chapter 29~~ *Chapters 2* (§ ~~59.1-364~~ *29.5-200* et seq.)*, 6 (§ 29.5-600 et seq.), and 9 (§ 29.5-900 et seq.)* of Title ~~59.1~~ *29.5* or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;

i. Section 18.2-434, when violations occur before a multi-jurisdiction grand jury;

j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;

k. Section 18.2-460 for which punishment as a felony is authorized;

l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;

m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;

n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;

o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;

p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;

r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;

s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;

t. Section 18.2-178 where the violation involves insurance fraud;

u. Section 18.2-346.01, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1;

v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;

w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;

x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;

z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;

ab. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;

ac. Section 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1;

ad. Subsection A or B of § 18.2-57 where the victim was selected because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or *ethnic or* national origin;

ae. Section 18.2-121 for which punishment as a felony is authorized;

af. Article 5 (§ 18.2-420 et seq.) of Chapter 9 of Title 18.2;

ag. §§ 18.2-178.1 and 18.2-178.2;

ah. § 18.2-369; and

ai. Any other provision of law when such condition is discovered in the course of an investigation that a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation, or conspiracy to violate the laws enumerated in this section.

2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when appropriate, to the Attorney General.

3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an

offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.

4. The provisions of this section shall not abrogate the authority of an attorney for the Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

§ 19.2-389. (Effective until July 1, 2026) Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

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

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

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

11. A person requesting a copy of his own criminal history record information, as defined in § 9.1-101, at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer

fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, ~~Crime Solvers or Crime Line~~ *crime solvers, or crime line* program, as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency, as defined in § 63.2-100, for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. The Department of Social Services for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency pursuant to § 63.2-901.1;

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

15. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ ~~58.1-4000~~ *29.5-700* et seq.) ~~and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services~~, *the Virginia Gaming Commission* for the conduct of investigations as set forth in ~~Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2~~ *Chapters 2 (§ 29.5-200 et seq.), 3 (§ 29.5-300 et seq.), and 6 (§ 29.5-600 et seq.) of Title 29.5, and the Virginia Racing Commission for the conduct of investigations set forth in Chapter 6 (§ 29.5-600 et seq.) of Title 29.5*;

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

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

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

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

20. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

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

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

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

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

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

26. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher

education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

27. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

28. Executive directors of behavioral health authorities, as defined in § 37.2-600, for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

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

30. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

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

32. The ~~Chairman~~ *Chair* of the Senate Committee for Courts of Justice or the ~~Chairman~~ *Chair* of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

39. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant

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or its designee;

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

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

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

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

44. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

47. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

48. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children;

49. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

50. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 47.

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

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

E. Criminal history information provided to licensed nursing homes, hospitals, and to home care organizations pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 17 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 37 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

§ 19.2-389. (Effective July 1, 2026) Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency, as defined in § 63.2-100, for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended care center for dissemination to the State Health Commissioner's representative pursuant to §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be further disseminated by the center to any party other than the data subject, the State Health Commissioner's representative, or a federal or state authority or court as may be required to comply with an express requirement of law;

14. The Department of Social Services for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency pursuant to § 63.2-901.1;

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

16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ ~~58.1-4000~~ *29.5-700* et seq.) ~~and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services~~, *the Virginia Gaming Commission* for the conduct of investigations as set forth in ~~Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2~~ *Chapters 2 (§ 29.5-200 et seq.), 3 (§ 29.5-300 et seq.), and 6 (§ 29.5-600 et seq.), and the Virginia Racing Commission for the conduct of investigations as set forth in Chapter 6 (§29.5-600 et seq.)*;

17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to § 32.1-162.15:1.17;

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

19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of

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

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

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

22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

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

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

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

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

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

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

29. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

30. Executive directors of behavioral health authorities, as defined in § 37.2-600, for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

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

32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

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

34. The ~~Chairman~~ *Chair* of the Senate Committee for Courts of Justice or the ~~Chairman~~ *Chair* of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

41. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

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

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

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

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

46. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

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

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

49. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

50. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children;

51. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

52. Other entities as otherwise provided by law.

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

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

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 49.

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

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

E. Criminal history information provided to licensed nursing homes, hospitals, and to home care organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 39 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth, and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment, or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, for each charge when any person is arrested on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1;

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city, or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or

e. Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 22.1-289.041, *29.5-808*, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, ~~58.1-4018.1,~~ 60.2-632, or 63.2-1509.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal Records Exchange only for those offenses enumerated in this subsection. Only reports received for those offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.

2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a capias for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

4. For any person served with a show cause for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

5. If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.

B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52, and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number, and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 authorizing the arrest of a person who has violated the provisions of his probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action that may have resulted from an indictment, presentment, or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of confinement submitted to it by any correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to, or release or escape from, a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve, or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges~~,~~ and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

§ 22.1-140.1. School Construction Fund and Program.

A. For the purpose of this section:

"Local school division" includes joint or regional schools established pursuant to § 22.1-26.

"Public school buildings and facilities" or "public school buildings" includes any building or facility used for career and technical education programs provided at any regional comprehensive school established pursuant to § 22.1-26.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the School Construction Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, including funds appropriated pursuant to subdivision B 5 of § ~~58.1-4125~~ *29.5-327*, 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 for the purposes of awarding grants pursuant to the School Construction Program established in subsection C. 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 president of the Board.

C. There is hereby established the School Construction Program (the Program) for the purpose of awarding grants from the Fund to local school boards to fund the construction of new public school buildings or the renovation or expansion of existing public school buildings and facilities in the local school division. The Program shall be administered by the Board in accordance with criteria and other requirements set forth in the general appropriation act.

TITLE 29.5.

GAMING AND WAGERING.

SUBTITLE I.

VIRGINIA GAMING COMMISSION.

CHAPTER 1.

GENERAL PROVISIONS.

§ 29.5-100. Definitions.

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

"Board" means the Virginia Gaming Commission Board established pursuant to § 29.5-103.

"Commission" means the Virginia Gaming Commission established pursuant to § 29.5-101.

"Commissioner" means the Commissioner of the Virginia Gaming Commission appointed pursuant § 29.5-102.

"Deputy Commissioner" means the Deputy Commissioner of Gaming appointed pursuant to § 29.5-105.

"Racing Commission" means the Virginia Racing Commission established pursuant to § 29.5-602.

§ 29.5-101. Virginia Gaming Commission.

Notwithstanding the provisions of Subtitle III (§ 29.5-900 et seq.) or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government, the Virginia Gaming Commission, which shall include the (i) Charitable Gaming Advisory Board established pursuant to § 29.5-201, (ii) Virginia Gaming Commission Board established pursuant to § 29.5-103, and (iii) the Virginia Racing Commission established pursuant to § 29.5-602. A Commissioner of the Virginia Gaming Commission shall be appointed pursuant to § 29.5-102 for the purpose of overseeing all gaming regulatory operations in the Commonwealth, except as otherwise provided in Chapter 6 (§ 29.5-600 et seq.) and Subtitle II (§ 29.5-700 et seq.).

§ 29.5-102. Commissioner appointed; salary; powers and duties.

A. The Commission shall be under the immediate supervision and direction of a Commissioner, who shall be a person of good reputation, particularly as to honesty and integrity, and shall be subject to a thorough background investigation conducted by the Department of State Police prior to appointment. The Commissioner shall possess demonstrated experience and expertise in one or more of the following fields: law, finance, public policy, or management of a significant regulatory enterprise. The Commissioner shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in *session, then at its next succeeding session. The Commissioner shall receive a salary as provided in the general appropriation act.*

The Commissioner shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

Before entering upon the discharge of his duties, the Commissioner shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein and shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the Commonwealth Gaming Operations Fund, established pursuant to § 29.5-119.

B. The Commissioner shall have the following powers and duties:

1. Supervise and administer the operation of the Virginia Gaming Commission in accordance with the provisions of this subtitle and with the rules and regulations promulgated pursuant to this subtitle.

2. Employ such (i) professional, technical, and clerical assistants and (ii) other qualified personnel as may be required to carry out the functions and duties of the Commission, including (a) a Deputy Commissioner of Gaming, (b) a Director of Regulatory Affairs, (c) a Chief Operating Officer, and (d) all necessary regular and special counsel notwithstanding the provisions of Chapter 5 (§ 2.2-500 et seq.) of Title 2.2, including at least one associate general counsel whose duties and responsibilities include legal oversight of the Virginia Racing Commission, established pursuant to § 29.5-602.

3. Employ an Executive Secretary to oversee and carry out the functions and duties of the Virginia Racing Commission pursuant to the provisions of this chapter.

4. Act as secretary and executive officer of the Board.

5. Require bond or other surety satisfactory to him from Commission employees with access to Commission funds, in such amount as provided in the rules and regulations of the Board. The Commissioner may also require bond from other employees, as he deems necessary.

6. Confer regularly, but not less than four times each year, with the Board on the operation and oversight of gaming activities regulated by the Commission; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Commission; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and oversight of gaming activities regulated by the Commission.

7. Suspend, revoke, or refuse to renew any license, permit, or registration issued pursuant to this subtitle or the rules and regulations adopted pursuant to this subtitle.

8. Enter into any arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of all gaming activities regulated by the Commission pursuant to this subtitle or the efficient conduct of his duties.

C. The Commissioner shall establish the following divisions within the Commission:

1. A Problem Gambling Division for the purpose of coordinating with local, state, and national stakeholders to manage problem gambling research, prevention, recovery, and treatment efforts. Such division shall provide support to programs funded by the Department of Behavioral Health and Developmental Services related to gambling addiction and recovery efforts and shall conduct strategic research in order to provide benefits through evidence-based education, prevention, and intervention programs to individuals adversely impacted by gambling addiction.

2. An External Affairs and Policy Division for the purpose of communicating with relevant stakeholders in the Commonwealth and recommending gaming policy decisions and legislative proposals to the General Assembly.

3. A Gaming Compliance and Audit Division for the purpose of ensuring the integrity and legality of gaming operations through internal controls and external regulations.

4. Any other division necessary to accomplish the goals of this subtitle.

§ 29.5-103. Virginia Gaming Commission Board; membership; appointment; terms; compensation.

A. There is hereby created the Virginia Gaming Commission Board within the Virginia Gaming Commission. The Board shall have a total membership of 10 members that shall consist of nine nonlegislative citizen members with voting privileges and one member with nonvoting privileges. Members shall be appointed as follows: five nonlegislative citizen members, who shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session; two nonlegislative citizen members appointed by the Speaker of the House of Delegates from a list of at least four nominees provided by the Chair of the House Committee on General Laws; and two nonlegislative citizen members appointed by the Senate Committee on Rules from a list of at least four nominees provided by the Chair of the Senate Committee on General Laws and Technology. Of the nonlegislative citizen members appointed by the Governor, at least one nonlegislative citizen member shall have experience in criminal investigations and law enforcement, at least one nonlegislative citizen member shall be a certified public accountant authorized to practice in the Commonwealth or have experience in corporate finance and securities, and at least one nonlegislative citizen member shall have experience in the *problem gambling or gambling addiction industry. One member of the Virginia Racing Commission, appointed by the chair of the Virginia Racing Commission, shall serve in an advisory role with nonvoting privileges. Nonlegislative citizen members of the Board shall be individuals of good reputation, particularly as to honesty and integrity, and shall be citizens of the Commonwealth. Consideration shall be given with respect to the political affiliation and the geographic residence of the nonlegislative citizen members prior to their appointment.*

B. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

C. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of five years. No nonlegislative citizen member shall serve more than two consecutive five-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. The Board shall elect a chair and vice-chair from among its membership. A majority of the voting members shall constitute a quorum. The meetings of the Board shall be held at the call of the chair or whenever the majority of the members so request.

E. Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Gaming Commission.

F. Before entering upon the discharge of their duties, members shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the Commonwealth Gaming Operations Fund, established pursuant to § 29.5-119.

G. No member shall:

1. Have any direct or indirect financial, ownership, or management interest in any gaming activities regulated by the Commission or any agency of the Commonwealth.

2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities regulated by the Commission or any agency of the Commonwealth.

3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of independent consulting services in connection with any gaming establishment or gaming activity regulated by the Commission or any agency of the Commonwealth.

§ 29.5-104. Powers and duties of the Board.

A. The Board shall have the power to promulgate regulations governing the establishment and operation of charitable gaming pursuant to Chapter 2 (§ 29.5-200 et seq.), casino gaming pursuant to Chapter 3 (§ 29.5-300 et seq.), sports betting pursuant to Chapter 4 (§ 29.5-400 et seq.), fantasy contests pursuant to Chapter 5 (§ 29.5-500 et seq.), and historical horse racing with pari-mutuel wagering pursuant to Chapter 6 (§ 29.5-600 et seq.). Such regulations shall be promulgated in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of all forms of gaming regulated by the Board.

B. The Board shall also exercise the following powers and duties and such others as may be provided by law:

1. Administer a voluntary exclusion program as provided in § 29.5-118.

2. Establish, advertise, and administer a tip line that may be accessed by phone and by internet that allows any person to confidentially report to the Commission information regarding conduct that is prohibited pursuant to this subtitle. The Board shall investigate all reasonable allegations of prohibited conduct and maintain the confidentiality of the identity of any reporting person unless such person authorizes disclosure of his identity or until such time as the allegation of prohibited conduct is referred to law enforcement. If an allegation of prohibited conduct is referred to law enforcement, the Board shall disclose a reporting person's identity only to the applicable law-enforcement agency. The identity of a reporting person shall be excluded from the provisions of § 2.2-3705.7.

3. Establish a consumer protection program and publish a consumer protection bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined in § 29.5-400, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and any other consumer protection measure the Board determines to be reasonable.

4. Adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 29.5-400, if it determines that a different percentage is reasonable and customary in the sports betting industry.

5. Hear and decide an appeal of any (i) penalty, (ii) denial of a permit or renewal, or (iii) suspension or revocation of a permit imposed by the Commissioner pursuant to Chapter 4 (§ 29.5-400 et seq.).

6. Promulgate regulations for the operation of a sports betting program under the direction of the Commissioner, who shall allow applicants to apply for permits to engage in sports betting operations in the

Commonwealth. The Commission shall not operate a sports betting platform or a sports betting facility.

7. Partner with law-enforcement authorities, including the Office of the Attorney General pursuant to § 2.2-511 and the Office of the Gaming Enforcement Coordinator in the Department of State Police, to address instances of illegal gaming activities in the Commonwealth.

C. The Board, in consultation with the External Affairs and Policy Division, shall make policy and legislative recommendations to the Governor and General Assembly related to (i) the regulation of existing legal gaming and wagering, (ii) the expansion of new gaming types, and (iii) the eradication of illegal gaming activity in the Commonwealth.

§ 29.5-105. Deputy Commissioner of Gaming; powers and duties.

A. The Deputy Commissioner of Gaming shall have the following powers and duties:

1. Monitor all forms of gaming conducted in the Commonwealth by collecting and analyzing data, coordinating with relevant state agencies, and engaging with stakeholders to promote integrity, accountability, and the public interest in the administration of gaming laws, for the purpose of assisting in the development of policies and making recommendations to the Commission, Racing Commission, and the General Assembly regarding potential legislation or regulations necessary to ensure a consistent, transparent, and cohesive regulatory framework for all gaming activities in the Commonwealth.

2. Serve as the primary liaison between the Gaming Commission and Virginia Racing Commission (the entities). The Deputy Commissioner shall (i) facilitate communication and coordination between the Commission in its oversight of historical horse racing and the Racing Commission in its oversight of pari-mutuel wagering on live and simulcast horse racing; (ii) ensure the effective sharing of information, including regulatory updates, compliance matters, and industry development to promote consistency and collaboration between the entities; (iii) provide regular reports to the entities regarding activities, trends, and issues affecting horse racing and pari-mutuel wagering in the Commonwealth; and (iv) advise the entities on policies and procedures to uphold the integrity of horse racing and pari-mutuel wagering activities in the Commonwealth.

3. Participate in the Problem Gambling Treatment and Support Advisory Committee established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

4. Exercise and perform such powers and duties as may be delegated to him by the Commissioner or the Board or as may be conferred or imposed upon him by law.

B. Neither the Deputy Commissioner nor his spouse nor any member of his immediate family shall make any contributions to a candidate for office or office holder at the local or state level, or cause such a contribution to be made on his behalf.

§ 29.5-106. Director of Regulatory Affairs; powers and duties.

A. The Director of Regulatory Affairs shall have the following powers and duties:

1. Oversee regulation of all gaming activities authorized pursuant to this subtitle, except for pari-mutuel wagering on live and simulcast horse racing authorized pursuant to Chapter 6 (§ 29.5-600 et seq.);

2. Manage a gaming compliance and audit division for the Commission;

3. Assume responsibility for all gaming licensing and permitting and related investigations;

4. Oversee electronic gaming operations authorized pursuant to this subtitle; and

5. Exercise and perform such powers and duties as may be delegated to him by the Commissioner or the Board or as may be conferred or imposed upon him by law.

B. Neither the Director of Regulatory Affairs nor his spouse nor any member of his immediate family shall make any contributions to a candidate for office or office holder at the local or state level, or cause such a contribution to be made on his behalf.

§ 29.5-107. Chief Operating Officer; powers and duties.

A. The Chief Operating Officer shall have the following powers and duties:

1. Oversee and manage human resources, information technology systems, facilities and security, finance and accounting, purchasing, and internal auditing departments within the Commission; and

2. Exercise and perform such powers and duties as may be delegated to him by the Commissioner or the Board or as may be conferred or imposed upon him by law.

B. Neither the Chief Operating Officer nor his spouse nor any member of his immediate family shall make any contributions to a candidate for office or office holder at the local or state level, or cause such a contribution to be made on his behalf.

§ 29.5-108. Financial interests of Board, employees, and family members prohibited.

A. No Board member or employee of the Commission shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee or permit holder subject to the provisions of this subtitle. No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

B. No employee of the Commission and no spouse or immediate family member of a Board member shall:

1. Have any direct or indirect financial, ownership, or management interest in any gaming activities regulated by the Commission or any agency of the Commonwealth.

2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities regulated by the Commission or any agency of the Commonwealth.

3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of independent consulting services in connection with any gaming establishment or gaming activity regulated by the Commission or any agency of the Commonwealth.

§ 29.5-109. Leases and purchases of property by the Board.

The making of leases and the purchasing of real estate by the Board under the provisions of this subtitle are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Commission shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings of the Department of General Services in relation to leases of real property into which it enters.

§ 29.5-110. Exemption of Commission from personnel and procurement procedures; information systems; etc.

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Commission in the exercise of any power conferred under this subtitle, nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Commission in the exercise of any power conferred under this subtitle.

B. To effect its implementation, the Commission's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Commission's capital projects and construction-related professional services under § 2.2-1132.

C. The Commission (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Commission and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commission's procurement opportunities on one website.

§ 29.5-111. Assistance from Department of State Police.

The Department of State Police shall assist in the conduct of investigations by the Commission.

§ 29.5-112. Criminal history records check required on certain employees; reimbursement of costs.

All persons hired by the Commission whose job duties involve access to or handling of the Commission's funds shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Commission for the cost of investigations conducted pursuant to this section.

§ 29.5-113. Employees of the Commission.

Employees of the Commission shall be considered employees of the Commonwealth. Employees of the Commission shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Commission shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, ethnic or national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11

(§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

§ 29.5-114. Liability of Board members; suits by and against Board members.

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this subtitle, except by the Commonwealth, and then only in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

§ 29.5-115. Counsel for members, agents, and employees of Board.

If any member, agent, or employee of the Board is arrested, indicted, or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chair may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this subtitle are paid.

§ 29.5-116. Hearings; representation by counsel.

Any licensee, permittee, registrant, or applicant for a license, permit, or registration authorized by this subtitle shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee, permittee, registrant, or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine, and question witnesses, present evidence on behalf of the corporation, and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

§ 29.5-117. Hearings; allowances to witnesses.

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

§ 29.5-118. Voluntary exclusion program.

The Board shall adopt regulations to establish and implement a voluntary exclusion program. 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) participating in charitable gaming, as defined in § 29.5-200; (ii) engaging in any form of casino gaming authorized under the provisions of Chapter 3 (§ 29.5-300 et seq.); (iii) participating in sports betting, as defined in § 29.5-400; (iv) participating in fantasy contests, as defined in § 29.5-500; (v) participating in pari-mutuel wagering on live horse racing, historical horse racing, or simulcast horse racing authorized pursuant to the provisions of Chapter 6 (§ 29.5-600 et seq.); or (vi) playing any account-based lottery game authorized under the provisions of Subtitle II (§ 29.5-700 et seq.). Any state agency, at the request of the Commission, 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 voluntary exclusion program for the duration of his exclusion period.

4. The name of a person participating in the voluntary exclusion 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 Board limited to any parties the Board 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. Permit holders, as defined in § 29.5-400, and owners and operators of casino gaming establishments shall make all reasonable attempts, as determined by the Board, to cease all direct marketing efforts to a person participating in the voluntary exclusion program. The voluntary exclusion program shall not preclude permit holders or owners and operators of casino gaming establishments from seeking the payment of a debt incurred by a person before entering the voluntary exclusion program. In addition, any permit holder or owner or operator of a casino gaming establishment may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

§ 29.5-119. Commonwealth Gaming Operations Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the

Commonwealth Gaming Operations 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 Commission's costs associated with (i) the conduct of investigations required pursuant to any provision of Chapters 1 (§ 29.5-100 et seq.) through 5 (§ 29.5-500 et seq.) and any provision of Chapter 6 (§ 29.5-600 et seq.) regarding the conduct of historical horse racing with pari-mutuel wagering and (ii) the enforcement of regulations promulgated by the Board pursuant to § 29.5-104. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 29.5-120. General disposition of civil penalties, fines, fees, etc.

Except as otherwise provided, any civil penalty, fine, fee, or other moneys collected pursuant to any provision of this subtitle shall be payable to the State Treasurer for remittance to the Commission.

CHAPTER 2.

CHARITABLE GAMING.

§ 29.5-200. Definitions.

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

"Advisory Board" means the Charitable Gaming Advisory Board established in § 29.5-201.

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Board-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Board-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this chapter. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this chapter.

"Charitable gaming permit" or "permit" means a permit issued by the Commissioner to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this chapter, charitable gaming supplies does not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Electronic gaming" or "electronic games" means any instant bingo, pull tab, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by mechanical *equipment.*

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than $100.

"Landlord" means any person or his agent, firm, association, organization, partnership, corporation, employee, or immediate family member that either owns and leases or leases any premises devoted in whole or in part to the conduct of bingo games or other charitable gaming pursuant to this chapter. "Landlord" also means any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include the responsibilities of (i) applying for and maintaining a permit or authorization; (ii) compiling, submitting, and maintaining required records and financial reports; and (iii) ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

"Network bingo provider" means a person licensed by the Commissioner to operate network bingo.

"Operation" means the activities associated with production of a charitable gaming or electronic gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming and electronic gaming designated by the organization's management.

"Organization" means any one of the following:

1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for educational purposes and awards scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

4. An association of war veterans or auxiliary units thereof organized in the United States;

5. A fraternal association or corporation operating under the lodge system;

6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;

7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;

9. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;

14. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code that manages a museum that is operated, and has always been operated, exclusively for the purposes of musical heritage and the legacy of the "1927 Bristol Sessions";

15. An organization (i) established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth; (ii) that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code; and (iii) that is operated, and has always been operated, for community awareness and action through educational, economic, and cultural service activities;

16. An organization established on or before December 31, 1977, that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;

17. A local chamber of commerce; or

18. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of $40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 29.5-213, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

"Pari-mutuel play" means an integrated network operated by a licensee of the Commission composed of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

"Qualified organization" means any organization to which a valid permit has been issued by the Commissioner to conduct charitable gaming or any organization that is exempt pursuant to § 29.5-206.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this chapter or under Board regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an organization's real property. For the purpose of this definition, (i) salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members or (ii) expenses for social or recreational activities for the principal benefit of a social organization's members may qualify as a business expense, if so determined by the Board. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

"Social organization" means any qualified organization that provides certification to the Commission that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. An organization established on or before November 10, 1922, that is (i) qualified under § 501(c)(4) of the Internal Revenue Code; (ii) the only federally chartered Marine Corps-related veterans organization in the country; and (iii) operated for the purpose of promoting the interest and preserving the traditions of the United States Marine Corps;

3. An organization established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth, that is qualified under § 501(c)(7) of the Internal Revenue Code;

4. An organization established on or before December 31, 1977, that is qualified under § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;

5. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

6. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue

Code; or

7. A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Board, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 29.5-215, the Board may rely on publications of the Internal Revenue Service regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

"Supplier" means any person who offers to sell, sells, or otherwise provides charitable gaming supplies to any qualified organization.

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown face up are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 29.5-201. Charitable Gaming Advisory Board; powers and duties.

A. The Charitable Gaming Advisory Board is hereby established as an advisory board within the Virginia Gaming Commission for the purpose of advising the Commission on all aspects of the conduct of charitable gaming in the Commonwealth.

B. The Advisory Board shall consist of nine nonlegislative citizen members who shall be appointed by the Governor subject to confirmation by the General Assembly, of whom one is a member of a charitable organization subject to the provisions of this chapter in good standing with the Commission, one is a charitable gaming supplier registered and in good standing with the Commission, one is an owner, lessor, or lessee of premises where charitable gaming is conducted, and at least one is or has been a law-enforcement officer in the Commonwealth but who (i) is not a charitable gaming supplier registered with the Commission, (ii) is not a lessor of premises where charitable gaming is conducted, (iii) is not a member of a charitable organization, and (iv) does not have an interest in or is not affiliated with such supplier or charitable organization or owner, lessor, or lessee of premises where charitable gaming is conducted, and five do not have an interest in nor are affiliated with a charitable organization, charitable gaming supplier, or owner, lessor, or lessee of premises where charitable gaming is conducted.

To the extent practicable, the Advisory Board shall consist of individuals from different geographic regions of the Commonwealth. Each member of the Advisory Board shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. Members shall be appointed for four-year terms. Vacancies shall be filled by the Governor in the same manner as the original appointment for the unexpired portion of the term. Each Advisory Board member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than four years shall thereafter be eligible for reappointment to two consecutive terms of four years each. The members of the Advisory Board shall serve at the pleasure of the Governor.

C. The Advisory Board shall elect a chair and vice-chair from among its members.

D. A quorum shall consist of five members. The decision of a majority of those members present and voting shall constitute a decision of the Advisory Board.

E. Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs and expenses of the members shall be provided by the Commission.

F. The Advisory Board shall adopt rules and procedures for the conduct of its business, including a provision that Advisory Board members shall abstain or otherwise recuse themselves from voting on any matter in which they or a member of their immediate family have a personal interest in a transaction as *defined in § 2.2-3101. The Advisory Board shall meet at least four times a year, and other meetings may be held at any time or place determined by the Advisory Board or upon call of the chair or upon a written request to the chair by any two members. Except for emergency meetings, all members shall be duly notified of the time and place of any regular or other meeting at least 10 days in advance of such meeting.*

G. The Advisory Board shall:

1. Advise the Virginia Gaming Commission on the conduct of charitable gaming in the Commonwealth and recommend changes to the provisions of this chapter and any applicable regulations;

2. Advise on other matters related to charitable gaming that the Commission may request or the Advisory Board may deem necessary; and

3. Keep a complete and accurate record of its proceedings. A copy of such record and any other public records not exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) shall be available for public inspection and copying during regular office hours at the Commission.

§ 29.5-202. Powers and duties of the Commission, Commissioner, and the Board; report.

The Commission, the Commissioner, and the Board shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of charitable gaming. Such powers and duties shall include the following:

1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this chapter and including all persons that conduct or provide goods, services, or premises used in the conduct of charitable gaming. It may employ such persons as are necessary to ensure that charitable gaming is conducted in conformity with the provisions of this chapter and Board regulations. The Commission shall designate such agents and employees as it deems necessary and appropriate who shall be sworn to enforce the provisions of this chapter and the criminal laws of the Commonwealth and who shall be law-enforcement officers as defined in § 9.1-101.

2. The Commission, its agents, and its employees charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities, or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming. These individuals may enter such places or premises for the purpose of carrying out any duty imposed by this chapter, securing records required to be maintained by an organization, investigating complaints, or conducting audits.

3. The Board may compel the production of any books, documents, records, or memoranda of any organization, electronic gaming manufacturer, or supplier involved in the conduct of charitable gaming for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Board may require the production of an annual balance sheet and operating statement of any person granted a permit pursuant to the provisions of this chapter and may require the production of any contract to which such person is or may be a party.

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

5. The Board may compel any person conducting charitable gaming to file with the Commission such documents, information, or data as shall appear to the Commission to be necessary for the performance of its duties.

6. The Commissioner may enter into arrangements with any governmental agency of this or any other state or any locality in the Commonwealth or any agency of the federal government for the purposes of exchanging information or performing any other act to better ensure the proper conduct of charitable gaming.

7. The Commissioner may issue a charitable gaming permit while the permittee's tax-exempt status is pending approval by the Internal Revenue Service.

8. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission and any recommendations for legislation applicable to charitable gaming in the Commonwealth.

9. The Commission, its agents, and employees may conduct such audits, in addition to those required by § 29.5-223, as deemed necessary and desirable.

10. The Board may limit the number of organizations for which a person may manage, operate, or conduct charitable games.

11. The Board may promulgate regulations that require any landlord that leases to a qualified organization any premises devoted in whole or in part to the conduct of bingo games or any other charitable gaming to register with the Commission.

12. The Commission shall report immediately, upon the receipt of a complaint of an alleged criminal violation of this chapter, such complaint to the Commission's general or special counsel hired by the Commissioner pursuant to § 29.5-102, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action.

13. Beginning July 1, 2026, and at least once every five years thereafter, the Commission shall convene a *stakeholder work group to review the limitations on prize amounts and provide any recommendations to the General Assembly by November 30 of the year in which the stakeholder work group is convened.*

§ 29.5-203. Regulations of the Board.

A. The Board shall adopt regulations that:

1. Require, as a condition of receiving a charitable gaming permit or authorization to conduct electronic gaming, that the applicant use a predetermined percentage of its receipts for those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized, including (i) those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real property or (ii) expenses related to the rental of real property by an organization as described by subdivision 5, 6, or 7 of the definition of "social organization" in § 29.5-200 where such real property is involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes, as follows:

a. With respect to charitable gaming, other than electronic gaming, a predetermined percentage of its gross receipts.

b. With respect to electronic gaming, a predetermined percentage of its electronic gaming adjusted gross receipts.

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation, or conduct of charitable gaming may be required in order for the Commissioner to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 29.5-207.

Membership lists furnished to the Commission in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits and authorizing social organizations to conduct electronic gaming. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with §§ 29.5-221 and 29.5-222.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and is used solely for the purpose of dispensing or opening such paper or electronic cards, or both, but does not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. Such regulations shall not prohibit (a) devices that display spinning, rotating, or rolling reels or animations or flashing lights; (b) devices that accept vouchers; (c) the purchase and play of an electronic pull tab with a single press or touch of a button; or (d) the use of multiple video monitors or touchscreens on an electronic gaming device.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation, or conduct of bingo; (ii) permit members who participate in the management, operation, or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 29.5-224, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 29.5-212.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, older than 13 years of age, of such member may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person younger than 18 years of age may play bingo, provided that such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign that bears a toll-free telephone number for the National Problem Gambling Helpline.

11. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign that bears the toll-free telephone number and website for the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police pursuant to § 52-54 for members of the public to report concerns about, or suspected instances of, illegal gaming activities.

12. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 29.5-218 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

13. Prescribe the conditions under which a qualified organization may manage, operate, or contract with operators of or conduct Texas Hold'em poker tournaments.

14. Prescribe the conditions under which a qualified organization may lease the premises of a permitted social organization for the purpose of conducting bingo, network bingo, instant bingo, pull tabs, seal cards, and electronic gaming permitted under this chapter and establish requirements for proper financial reporting of all disbursements, gross receipts, and electronic gaming adjusted gross receipts and payment of all fees required under this chapter.

B. The Board may, by regulation, approve variations to the card formats for bingo games, provided that such variations result in bingo games that are conducted in a manner consistent with the provisions of this chapter. Board-approved variations may include bingo games commonly referred to as player selection games and 90-number bingo.

§ 29.5-204. Denial, suspension, or revocation of permit; hearings and appeals.

A. The Commissioner may deny, suspend, or revoke the permit of any organization found not to be in strict compliance with the provisions of this chapter and Board regulations. The action of the Commissioner in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

B. Except as provided in §§ 8.01-534, 29.5-209, 29.5-221, 29.5-222, and 29.5-228, no permit to conduct charitable gaming or authorization to conduct electronic gaming shall be denied, suspended, or revoked, and no charitable games or funds from charitable gaming operations shall be seized, except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Commissioner, hearings may be conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court. After a hearing on the issues, the Commissioner may suspend, revoke, or refuse to issue any such permit or authorization if he determines that the organization has not complied with the provisions of this chapter or Board regulations.

C. Any person aggrieved by a refusal of the Commissioner to issue any permit, the suspension or revocation of a permit, 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.

§ 29.5-205. Permitted forms of gaming; prizes not gaming contracts.

A. This chapter permits qualified organizations to conduct (i) raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments and (ii) electronic gaming authorized pursuant to the provisions of § 29.5-215. All games not explicitly authorized by this chapter or Board regulations adopted in accordance with § 29.5-203 are prohibited. Nothing herein shall be construed to authorize the Board to approve the conduct of any other form of poker in the Commonwealth.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this chapter shall prohibit an organization from using the Virginia Lottery's Pick-3 number or any number or other designation selected by the Virginia Lottery in connection with any lottery as the basis for determining the winner of a raffle.

§ 29.5-206. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this chapter shall be required to (i) notify the Commission of its intention to conduct raffles or (ii) comply with Board regulations governing raffles.

B. Any organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of $40,000 or less from all charitable gaming other than raffles on a total of no more than seven days per calendar year shall register with the Commission pursuant to the provisions of § 29.5-208.

C. If any organization's actual gross receipts from raffles for the 12-month period exceed $40,000 as described in subsection A or actual gross receipts from all charitable gaming other than raffles conducted on a total of no more than seven days per calendar year exceed $40,000 as described in subsection B, such organization shall obtain a permit pursuant to the provisions of § 29.5-209 and file by a specified date the report required by § 29.5-221.

D. Any (i) organization described in subdivision 18 of the definition of "organization" in § 29.5-200 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 29.5-209 and the payment of audit fees required by § 29.5-223. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 29.5-223, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 18 of the definition of "organization" in § 29.5-200, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this chapter or other Board regulations.

E. Nothing in this section shall prevent the Commission from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this chapter and, to the extent applicable, Board regulations.

§ 29.5-207. Eligibility for permit; exceptions; where valid.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the Commonwealth for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or of a national or international civic organization that is exempt under § 501(c) of the Internal Revenue Code and that has a lodge or chapter holding a charitable gaming permit issued under the provisions of this chapter anywhere within the Commonwealth; (ii) to booster clubs that have been operating for less than three years and that have been established solely to raise funds for school-sponsored activities in public schools or private schools accredited pursuant to § 22.1-19; (iii) to recently established volunteer fire and rescue companies or departments, after county, city, or town approval; or (iv) to an organization that relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2, and was the holder of a valid permit at the time of its relocation.

2. Be currently operating, and have always operated, as a nonprofit organization.

3. Have at least 50 percent of its membership consist of residents of the Commonwealth; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501(c)(3) of the Internal Revenue Code, the Commission shall exempt such organization from the requirements of this subdivision.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed $40,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501(c) of the Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the Commission in conjunction with an application for a charitable gaming permit. If such documentation is filed, the Commissioner may, after reviewing such documentation he deems necessary, issue a charitable gaming permit.

C. A permit shall be valid only for the dates and times designated in the permit.

§ 29.5-208. Registration requirements; certain organizations.

A. Any organization seeking to conduct charitable gaming in accordance with subsection B of § 29.5-206 shall first register with the Commission on a form prescribed by the Board. The Board shall only require the organization to provide (i) proof of the organization's nonprofit status; (ii) contact information for the chief executive officer of the organization or his designee; (iii) the location, dates, and times of any expected charitable gaming activity; (iv) a description of the general nature of the anticipated charitable gaming activity; and (v) a signed attestation that the organization (a) does not reasonably expect to realize more than $40,000 in gross receipts on a total of no more than seven days per calendar year for the charitable gaming activities listed on the registration form; (b) understands that should the organization exceed the $40,000 threshold, it will be required to file the report in accordance with § 29.5-221; and (c) understands it shall be required to comply with the provisions of this chapter and Board regulations.

B. Any organization that registers with the Commission pursuant to this section is subject to random audits of its charitable gaming activities by the Commission and is subject to the penalties specified in §§ 29.5-228 and 29.5-230 for gross violations of this chapter.

C. The Commissioner may deny, suspend, or revoke the registration of any organization found not to be in compliance with the provisions of this chapter and Board regulations. The action of the Commissioner in denying, suspending, or revoking any registration shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

D. Any person aggrieved by the denial, suspension, or revocation of a registration or any other action of the Commissioner may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 29.5-209. Permit required; application fee; form of application.

A. Except as provided for in § 29.5-206, prior to the commencement of any charitable game, an organization shall obtain a permit from the Commission.

B. All complete applications for a permit shall be acted upon by the Commissioner within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this chapter, and at the discretion *of the Commissioner, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.*

All permits shall be subject to regulation by the Board to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Commission. The Commission may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange, upon receipt of a prospective employee, licensee, or applicant record or notification that no record exists, shall forward the report to the Commissioner or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming, except that an organization may also apply for and receive a temporary permit pursuant to § 29.5-211.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Board and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Board regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Commissioner has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 29.5-207 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 29.5-210. Authorization to conduct electronic gaming required; fee.

A. In addition to a charitable gaming permit, a social organization shall receive authorization from the Commissioner prior to conducting any electronic gaming pursuant to the provisions of § 29.5-215. A social organization may request such authorization from the Commissioner by providing certain information, as determined by the Board, on a form prescribed by the Board.

B. All requests for authorization to conduct electronic gaming shall be acted upon by the Commissioner within 45 days from the date of the request. A social organization that meets the necessary requirements pursuant to this chapter may be, at the discretion of the Commissioner, authorized to conduct electronic gaming pursuant to the provisions of § 29.5-215. Any such authorization granted by the Commissioner shall be noted on the social organization's charitable gaming permit and shall be valid for the time specified in the permit unless it is sooner suspended or revoked. No authorization to conduct electronic gaming shall be valid for longer than two years. All requests received by the Commission shall be a matter of public record.

All authorizations to conduct electronic gaming shall be subject to regulation by the Board to ensure the public safety and welfare in the operation of electronic games. The authorization shall only be granted after a reasonable investigation has been conducted by the Commission.

C. In no case shall a social organization be authorized to conduct electronic gaming at more than one location.

D. Requests for authorization to conduct electronic gaming shall be made on forms prescribed by the Board and shall be accompanied by payment of a fee.

E. Requests for renewal of such authorizations shall be made in accordance with Board regulations. If a complete renewal request is received 45 days or more prior to the expiration of the authorization, the authorization shall continue to be effective until such time as the Commissioner has taken final action. Otherwise, the authorization shall expire at the end of its term.

§ 29.5-211. Temporary permits authorized; limitations.

A. Any qualified organization described in subdivision 4 or 5 of the definition of "organization" in § 29.5-200 may obtain a temporary permit from the Commissioner allowing such organization to sell instant bingo, pull tabs, or seal cards upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the permit.

B. All complete applications for a permit shall be acted upon by the Commissioner within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this chapter, and at the discretion of the Commissioner, a temporary permit may be issued. All temporary permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than one year. The application shall be a matter of public record.

All temporary permits shall be subject to regulation by the Board to ensure the public safety and welfare in the operation of charitable games. The temporary permit shall only be granted after a reasonable investigation has been conducted by the Commission. The Commission may require any prospective *employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the employee's, permit holder's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange, upon receipt of a prospective employee, permit holder, or applicant record or notification that no record exists, shall forward the report to the Commissioner or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.*

C. In no case shall an organization receive more than one temporary permit allowing it to conduct charitable gaming; however, an organization may also receive a permit in accordance with the provisions of § 29.5-209.

D. Application for a temporary permit shall be made on forms prescribed by the Board and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of temporary permits shall be made in accordance with Board regulations. If a complete renewal application is received 45 days or more prior to the expiration of the temporary permit, the temporary permit shall continue to be effective until such time as the Commissioner has taken final action. Otherwise, the temporary permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 29.5-207 shall cause the automatic denial of the temporary permit, and no organization shall conduct any charitable gaming in accordance with the provisions of subsection A until such requirements are met and a temporary permit is obtained.

§ 29.5-212. Sale of raffle tickets; drawings.

A. Except as provided in subsection B, a qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth.

B. A qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth, provided the raffle is conducted in accordance with (i) Board regulations and (ii) the laws and regulations of the jurisdiction in which the raffle drawing will be held.

C. Before a prize drawing, each stub or other detachable section of each ticket sold or won through some other authorized charitable game conducted by the same organization holding the raffle shall be placed into a receptacle from which the winning tickets are drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance of being drawn.

§ 29.5-213. Sale of instant bingo, pull tabs, or seal cards.

A. Except as provided in subsection D, instant bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined in § 29.5-200, (ii) upon premises that are owned or exclusively and entirely leased by the qualified organization or leased by the qualified organization pursuant to subsection C, and (iii) at such times that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests via controlled access. Except as provided in subsections C and D, no organization may sell instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the organization's principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization. Nothing in this chapter shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs or seal cards, commonly known as last sale games, conducted in accordance with this section or, if such games are electronic games, in accordance with § 29.5-215.

B. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 29.5-215.

C. Notwithstanding the provisions of subsection A, a qualified organization may lease the premises of any social organization authorized pursuant to § 29.5-215 for the purpose of selling instant bingo, pull tabs, or seal cards.

D. Notwithstanding the provisions of subsection A, instant bingo, pull tabs, or seal cards may be sold by a qualified organization that has received a temporary permit from the Commissioner pursuant to § 29.5-211 upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the temporary permit.

§ 29.5-214. Sale of instant bingo, pull tabs, or seal cards dispensed by mechanical equipment.

As a part of its annual fundraising event, any qualified organization may sell instant bingo, pull tabs, or seal cards, provided that (i) any such instant bingo, pull tabs, or seal cards are dispensed by mechanical equipment only; (ii) the sale of the same is limited to a single event of no more than seven days per calendar year; (iii) any such event is open to the public; and (iv) no such organization realizes actual gross receipts of more than $40,000 from the conduct of all charitable gaming other than raffles on a total of no more than seven days per calendar year. Notwithstanding the provisions of § 29.5-217, an organization authorized under this section shall not be required to sell such instant bingo, pull tabs, or seal cards at such times designated in the permit for regular bingo games or at a location at which the organization is authorized to *conduct regular bingo games pursuant to subsections E and F of § 29.5-216. If any organization's actual gross receipts from the sale of instant bingo, pull tabs, or seal cards pursuant to this section exceed $40,000, the Commission shall require the organization to obtain a permit pursuant to the provisions of § 29.5-209 and file by a specified date the report required by § 29.5-221. The Commission may require organizations authorized under this section to make such financial reporting as it deems necessary.*

Nothing in this section shall be construed as exempting organizations authorized to sell instant bingo, pull tabs, or seal cards under this section from any other provisions of this chapter or other Board regulations.

§ 29.5-215. Electronic gaming; penalty.

A. The Commissioner may authorize a social organization to conduct electronic gaming (i) within its social quarters and (ii) elsewhere on the premises of its primary location. Any such authorized social organization may lease its premises to any qualified organization for the purpose of conducting electronic gaming. A qualified organization that leases the premises of a social organization pursuant to this section shall be subject to the rules and regulations prescribed by the Board. No other electronic gaming shall be allowed under this chapter. Any person who conducts or participates in electronic gaming that is not authorized under this section shall be subject to the penalties specified in § 29.5-230.

B. A social organization may request authorization from the Commissioner to conduct electronic gaming pursuant to this section in accordance with the procedures established under §§ 29.5-204 and 29.5-209. Any fee charged by the Commission for the purpose of such authorization shall be in addition to any fee charged for a charitable gaming permit. Any charitable gaming permit that also authorizes a social organization to conduct electronic gaming shall identify the expiration date of such authorization and the number of electronic gaming devices authorized at the location.

C. A social organization and any qualified organization that leases the premises of a social organization pursuant to this section are prohibited from advertising any electronic gaming activities to the general public.

D. The Commission may authorize a maximum of 18 electronic gaming devices at a location. Each such device shall bear a mark indicating it has been authorized and approved by the Commission.

E. An electronic gaming manufacturer that has been issued a permit by the Commissioner in accordance with § 29.5-225 shall report all electronic gaming adjusted gross receipts pursuant to the provisions of § 29.5-222.

F. The use of electronic gaming devices utilizing multiple video monitors or touchscreens shall be limited to one player at a time.

G. No social organization or qualified organization leasing the premises of a social organization shall allow any individual younger than 21 years of age to participate in electronic gaming. No individual younger than 21 years of age shall participate in electronic gaming or otherwise use an electronic device to play or redeem any instant bingo, pull tabs, or seal cards.

H. No social organization or any qualified organization leasing the premises of a social organization shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in electronic gaming.

§ 29.5-216. Conduct of bingo games.

A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations on any calendar day.

D. Qualified organizations may hold an unlimited number of bingo sessions on any calendar day.

E. Except as provided in subsection F, no organization may conduct bingo games (i) at a location outside of the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (ii) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization.

F. Notwithstanding the provisions of subsection E, a qualified organization may lease the premises of any social organization authorized pursuant to § 29.5-215 for the purpose of conducting bingo games.

§ 29.5-217. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this chapter may also play instant bingo, network bingo, pull tabs, or seal cards; however, such games shall be played only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 29.5-216, except that a qualified organization that is issued a temporary permit pursuant to § 29.5-211 shall be authorized to play instant bingo, pull tabs, or seal cards in accordance with subsection D of § 29.5-213. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 29.5-215.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a *record of the date, quantity, and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.*

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in instant bingo, network bingo, pull tabs, or seal cards.

§ 29.5-218. Conduct of network bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this chapter may also sell network bingo cards; however, network bingo shall be sold only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 29.5-216.

B. Any organization selling network bingo cards shall maintain a record of the date and quantity of network bingo cards purchased from a licensed network bingo provider. The organization shall also maintain a written invoice or receipt from a licensed supplier verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization or by electronic fund transfer. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where network bingo cards are sold.

C. No qualified organization shall sell any network bingo cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any network bingo cards.

D. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in any network bingo game. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in network bingo games.

E. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in network bingo games.

F. No qualified organization shall conduct network bingo more frequently than one day in any calendar week, which shall not be the same day of each week.

G. No qualified organization shall sell network bingo cards on the internet or other online service or allow the play of network bingo on the internet or other online service. However, the location where network bingo games are conducted shall be equipped with a video monitor, television, or video screen, or any other similar means of visually displaying a broadcast or signal, that relays live, real-time video of the numbers as they are called by a live caller. The internet or other online service may be used to relay information about winning players.

H. Qualified organizations may award network bingo prizes on a graduated scale; however, no single network bingo prize shall exceed $25,000.

I. Nothing in this section shall be construed to prohibit an organization from participating in more than one network bingo network.

§ 29.5-219. Conduct of Texas Hold'em poker tournaments by qualified organizations; limitation of operator fee; conditions.

A. Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct Texas Hold'em poker tournaments; however, no such organization may conduct individual Texas Hold'em poker games. The Board shall promulgate regulations establishing circumstances under which organizations qualified to conduct bingo games prior to July 1, 2019, may conduct Texas Hold'em poker tournaments.

B. A qualified organization may contract with an operator to administer Texas Hold'em poker tournaments. Limitations on operator fees shall be established by Board regulations.

C. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments.

E. No qualified organization shall allow any individual younger than 18 years of age to participate in Texas Hold'em poker tournaments.

§ 29.5-220. Joint operation of bingo games; written reports; joint permit required.

A. Any two or more qualified organizations may jointly organize and conduct bingo games provided both have fully complied with all other provisions of this chapter.

B. Any two or more qualified organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this chapter that would apply to a single organization conducting bingo games and (ii) required to furnish to the Commission a written report setting forth the location where such games will be held and the division of manpower, costs, and proceeds for each game to be jointly conducted.

Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the Commissioner shall issue a joint permit.

C. No bingo game shall be jointly conducted until the joint permit issued pursuant to subsection B is obtained by the organizations.

§ 29.5-221. Reports of gross receipts, electronic gaming adjusted gross receipts, and disbursements required; form of reports; failure to file.

A. 1. Each qualified organization shall keep a complete record of all:

a. Inventory of charitable gaming supplies purchased.

b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered.

c. Electronic gaming adjusted gross receipts.

d. Disbursements related to charitable gaming and electronic gaming operations, including a breakdown of disbursements for each purpose specified in subdivision 1 of § 29.5-224.

2. Except as provided in §§ 29.5-206 and 29.5-222, each qualified organization shall file under penalty of perjury and at least annually, on a form prescribed by the Board, a report of all receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report, and any other information related to its charitable gaming operation that the Commission may require. In addition, the Board, by regulation, may require any qualified organization, except any qualified organization that realizes annual gross receipts of $40,000 or less, whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Commissioner. The Board, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 29.5-206, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 29.5-203 or have been disbursed in a manner approved by the Commission.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Board-prescribed forms or reasonable facsimiles thereof approved by the Commission; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Commissioner may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this chapter, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 29.5-222. Reports of electronic gaming adjusted gross receipts by electronic gaming manufacturer required; form of reports; failure to file.

A. Each electronic gaming manufacturer that holds a permit issued by the Commissioner pursuant to § 29.5-225 shall keep a complete record of all electronic gaming adjusted gross receipts and shall file at least annually, on a form prescribed by the Board, a report of all such receipts and any other information related to the manufacture of electronic gaming devices that the Commission may require.

B. The report required by this section shall be filed on or before the date prescribed by the Commissioner. The Board, by regulation, shall establish a schedule of late fees to be assessed for any electronic gaming manufacturer that fails to submit required reports by the due date.

C. Each electronic gaming manufacturer shall maintain for three years a complete written record of all electronic gaming adjusted gross receipts.

D. The failure to file the report required by this section within 30 days of the time such report is due shall cause the automatic revocation of the electronic gaming manufacturer's permit, and no such manufacturer shall manufacture any new electronic gaming device until the report is properly filed and a new permit is obtained. However, the Commissioner may grant an extension of time for filing such report for a period not to exceed 45 days if requested by a manufacturer, provided that the manufacturer requests an extension within 15 days of the time such report is due and all projected fees are paid. For the term of any such extension, the manufacturer's permit shall not be automatically revoked, such manufacturer may continue to manufacture electronic gaming devices, and no new permit shall be required.

E. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 29.5-223. Audit of reports; exemption; audit and administration fee; additional assessment of gross receipts and electronic gaming adjusted gross receipts.

A. All reports filed pursuant to §§ 29.5-221 and 29.5-222 shall be subject to audit by the Commission in accordance with Board regulations. The Commission may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Commission's responsibilities under this chapter.

B. The Board shall prescribe a reasonable audit and administration fee to be paid by (i) any organization conducting charitable gaming under a permit issued by the Commissioner unless the organization is exempt from such fee pursuant to § 29.5-206 or (ii) any electronic gaming manufacturer that holds a permit issued by the Commissioner pursuant to § 29.5-225. Such fee shall not exceed one-half of one percent of the gross receipts that an organization reports pursuant to § 29.5-221 or one-half of one percent of the electronic gaming adjusted gross receipts that an electronic gaming manufacturer reports pursuant to § 29.5-222. The audit and administration fee shall accompany each report for each calendar quarter.

C. The audit and administration fee shall be payable to the State Treasurer. All such fees received by the State Treasurer shall be separately accounted for and shall only be used by the Commission for the purposes of auditing and regulating charitable gaming.

D. In addition to the fee imposed under subsection B, an additional fee of (i) one-quarter of one percent of the gross receipts that an organization reports pursuant to § 29.5-221 shall be paid by the organization or (ii) one-quarter of one percent of the electronic gaming adjusted gross receipts that an electronic gaming manufacturer reports pursuant to § 29.5-222 shall be paid by the electronic gaming manufacturer to the State Treasurer. All such amounts shall be collected and deposited in the same manner as prescribed in subsections B and C and shall be used for the same purposes.

§ 29.5-224. Prohibited practices.

In addition to those other practices prohibited by this chapter, the following acts or practices are prohibited:

1. No part of the gross receipts or electronic gaming adjusted gross receipts derived by a qualified organization may be used for any purpose other than (i) gaming expenses; (ii) reasonable and proper business expenses; and (iii) those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized.

2. Except as provided in § 29.5-226, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 29.5-220.

3. No person shall pay or receive for use of any premises wholly devoted to the conduct of any charitable games any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation, or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member *of a qualified organization, provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 29.5-200, provided (a) such sales are conducted by no more than two on-duty employees and (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards.*

5. No person shall receive any remuneration for participating in the management, operation, or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed $30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons younger than 19 years of age who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation, or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation, or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game, provided the food and beverages are provided in accordance with Board regulations;

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Commissioner in accordance with § 29.5-226, or who are exempt from such registration requirement. Except as provided for in subdivision f and subsection E of § 29.5-226, such remuneration shall not exceed $200 per session;

f. For services provided on any day designated as a legal holiday pursuant to § 2.2-3300, remuneration shall be paid at a rate not less than one and one-half times the remuneration rate paid pursuant to subdivision e to bingo managers or callers who have a current registration certificate issued by the Commissioner in accordance with § 29.5-226, or who are exempt from such registration requirement; and

g. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed $50 per session.

6. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease, or otherwise provide for consideration any bingo supplies, including bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor, or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

7. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

8. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed $250 for a single door prize or $500 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed $100. However, up to 10 games per bingo session may feature a regular bingo or special bingo game prize of up to $200;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed $2,000;

d. Except as provided in this subdivision 8, no bingo jackpot of any nature whatsoever shall exceed $1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed $1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No single network bingo prize shall exceed $25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

9. The provisions of subdivision 8 shall not apply to any progressive bingo game in which (i) a regular or special prize, not to exceed $100, is awarded on the basis of predetermined numbers or patterns selected at random and (ii) a progressive prize, not to exceed $500 for the initial progressive prize and $5,000 for the maximum progressive prize, is awarded if the predetermined numbers or patterns are covered when a certain number of numbers is called, provided that (a) there are no more than six such games per session per organization, (b) the amount of increase of the progressive prize per session is no more than $200, (c) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (d) the organization separately accounts for the proceeds from such sale, and (e) such games are otherwise operated in accordance with the Commission's rules of play.

10. No organization shall award any raffle prize valued at more than $100,000.

The provisions of this subdivision shall not apply to a raffle conducted no more than three times per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any one geographical region of the Commonwealth.

11. No qualified organization composed of or for deaf or blind persons that employs a person not a member to provide clerical assistance in the management and operation but not the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

12. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years, he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation, or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game that was found by the Commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance, or Board regulation.

13. Qualified organizations jointly conducting bingo games pursuant to § 29.5-220 shall not circumvent any restrictions and prohibitions that would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

14. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 29.5-225.

15. Unless otherwise permitted in this chapter, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

16. No organization qualified to conduct Texas Hold'em poker tournaments pursuant to § 29.5-219 shall conduct any Texas Hold'em poker games where the game has no predetermined end time and the players wager actual money or poker chips that have cash value.

§ 29.5-225. Suppliers of charitable gaming supplies; manufacturers of electronic gaming devices; permit; qualification; suspension, revocation, or refusal to renew certificate; maintenance, production, and release of records.

A. No person shall offer to sell, sell, or otherwise provide charitable gaming supplies to any qualified organization and no manufacturer shall distribute electronic gaming devices for charitable gaming in the Commonwealth unless and until such person has made application for and has been issued a permit by the Commissioner. An application for permit shall be made on forms prescribed by the Board and shall be accompanied by a fee in the amount of $1,000. Each permit shall remain valid for a period of one year from the date of issuance. Application for renewal of a permit shall be accompanied by a fee in the amount of $1,000 and shall be made on forms prescribed by the Board.

B. The Board shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this chapter for the registration of suppliers and manufacturers of electronic gaming devices for charitable gaming. The Commissioner shall refuse to issue a permit to any supplier or manufacturer who has, or who has any officer, director, partner, or owner who has, (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) violated the gaming laws of any jurisdiction within the last five years, including violations for failure to register; or (iv) had any license, permit, certificate, or other authority related to charitable gaming suspended or revoked in the Commonwealth or in any other jurisdiction within the last five years. The Commissioner may refuse to issue a permit to any supplier or manufacturer who has, or who has any officer, director, partner, or owner who has, (a) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth or (b) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Commissioner shall suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (i), (ii), (iii), or (iv) of subsection B. The Commissioner *shall suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (a) or (b) of subsection B or for any violation of this chapter or regulation of the Board. Before taking any such action, the Commissioner shall give the supplier or manufacturer a written statement of the grounds upon which he proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).*

D. Each supplier shall document each sale of charitable gaming supplies, including electronic gaming devices, and other items incidental to the conduct of charitable gaming, such as markers, wands, or tape, to a qualified organization on an invoice that clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity of deals sold, and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color, and quantity of bingo paper sold; and (v) any other information with respect to charitable gaming supplies, including electronic gaming devices, or other items incidental to the conduct of charitable gaming as the Board may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

Each manufacturer of electronic gaming devices shall document each distribution of such devices to a qualified organization or supplier on an invoice that clearly shows (a) the name and address of the qualified organization or supplier to which such systems were distributed; (b) the date of distribution; (c) the serial number of each such device; and (d) any other information with respect to electronic gaming devices as the Board may prescribe by regulation. A legible copy of the invoice shall accompany the electronic gaming devices when delivered to the qualified organization or supplier.

E. Each supplier and manufacturer shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier and manufacturer shall make such documents immediately available for inspection and copying to any agent or employee of the Commission upon request made during normal business hours. This subsection shall not limit the right of the Commission to require the production of any other documents in the possession of the supplier or manufacturer that relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Commission in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. Each supplier and manufacturer shall provide to the Commission the results of background checks and any other records or documents necessary for the Commission to enforce the provisions of subsections B and C.

§ 29.5-226. Bingo managers and callers; remuneration; registration; qualification; suspension, revocation, or refusal to renew certificate; exceptions.

A. No person shall receive remuneration as a bingo manager or caller from any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Commissioner. Application for registration shall be made on forms prescribed by the Board and shall be accompanied by a fee in the amount of $75. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of $75 and shall be made on forms prescribed by the Board.

B. As a condition of registration as a bingo manager, the applicant shall (i) have been a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration and (ii) be required to complete a reasonable training course developed and conducted by the Board.

As a condition of registration as a bingo caller, the applicant shall be required to complete a reasonable training course developed and conducted by the Board.

The Commissioner may refuse to register any bingo manager or caller who has (a) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense that, if committed in the Commonwealth, would be a felony; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Commissioner may suspend, revoke, or refuse to renew the registration certificate of any bingo manager or caller for any conduct described in subsection B or for any violation of this chapter or Board regulations. Before taking any such action, the Commissioner shall give the bingo manager or caller a written statement of the grounds upon which he proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The provisions of subsection A requiring registration for bingo callers with the Commission shall not *apply to a bingo caller for a volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision.*

E. By October 1, 2029, and annually thereafter, the Board shall adjust the dollar amount of $200 specified in subdivision 5 e of § 29.5-224 to reflect the rate of inflation from the previous date that the dollar amount was established, as measured by the Consumer Price Index or other method of measuring the rate of inflation that the Department determines is reliable and generally accepted. The amount of each annual adjustment shall not be less than zero and shall be rounded to the nearest whole dollar.

§ 29.5-227. Licensing of network bingo providers; qualification; suspension, revocation, or refusal to renew license; maintenance, production, and release of records.

A. No person shall sell, offer to sell, or otherwise provide access to a network bingo network to any qualified organization unless and until such person has made application for and has been issued a license by the Commissioner. An application for license shall be made on forms prescribed by the Board and shall be accompanied by a fee in the amount of $500. Each license shall remain valid for a period of two years from the date of issuance. Application for renewal of a license shall be accompanied by a fee in the amount of $500 and shall be made on forms prescribed by the Board.

B. The Board shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this chapter for the licensure of network bingo providers. The Commissioner may refuse to issue a license to any network bingo provider that has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; (iv) failed to file or been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or (v) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Commissioner may suspend, revoke, or refuse to renew the license of any network bingo provider for any conduct described in subsection B or for any violation of this chapter or regulation of the Board. Before taking any such action, the Commissioner shall give the network bingo provider a written statement of the grounds upon which he proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Board by regulation shall require network bingo providers to have onsite independent supervision of network bingo games as the numbers are called.

E. Each network bingo provider shall document each sale of network bingo supplies and other items incidental to the conduct of network bingo to a qualified organization on an invoice that clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each network bingo card, the quantity of cards sold, and the price per card paid by the qualified organization; and (iv) any other information required by the Commission. A legible copy of the invoice shall accompany the network bingo supplies when delivered to the qualified organization.

F. Each network bingo provider shall maintain a legible copy of each invoice required by subsection E for a period of three years from the date of sale. Each network bingo provider shall make such documents immediately available for inspection and copying to any agent or employee of the Commission upon request made during normal business hours. This subsection shall not limit the right of the Commission to require the production of any other documents in the possession of the network bingo provider that relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Commission in accordance with this subsection shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 29.5-228. Suspension of permit and registration.

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this chapter or Board regulations, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit or registration of the organization conducting charitable gaming. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit or registration, he shall suspend the permit or registration. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Commission or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension

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has been lifted by the Commission or a court of competent jurisdiction.

§ 29.5-229. Civil penalty.

A. Any person or organization, whether permitted or qualified pursuant to this chapter or not, that (i) conducts charitable gaming without first obtaining a permit to do so, (ii) continues to conduct such games after revocation or suspension of such permit, or (iii) otherwise violates any provision of this chapter shall, in addition to any other penalties provided, be subject to a civil penalty of not less than $25,000 and not more than $50,000 per incident. Any civil penalties collected pursuant to this section shall be payable to the State Treasurer for remittance to the Commission.

B. Any electronic gaming manufacturer, whether permitted pursuant to this chapter or not, shall, in addition to any other penalties provided, be subject to the penalty identified in subsection A for any violation of any provision of this chapter.

§ 29.5-230. Criminal penalties.

A. Any person who (i) violates the provisions of this chapter; (ii) willfully and knowingly files, or causes to be filed, a false application, report, or other document; or (iii) willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report, or other document required to be filed with or made to the Commission is guilty of a Class 1 misdemeanor.

B. Each day in violation of this section shall constitute a separate offense.

C. Any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than $1,000, is guilty of petit larceny and, when the amount of funds is $1,000 or more, is guilty of grand larceny. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

CHAPTER 3.
CASINO GAMING.
Article 1.
General Provisions.

§ 29.5-300. Definitions.

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

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

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

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

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

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

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

"Eligible host city" means any city described in § 29.5-307 in which a casino gaming establishment is authorized to be located.

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

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

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

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

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 29.5-312.

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

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

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

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

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

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

"Professional sports" means the same as that term is defined in § 29.5-400.

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

"Sports betting" means the same as that term is defined in § 29.5-400.

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

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

"Voluntary exclusion program" means a program established by the Board pursuant to § 29.5-118 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision 1 of § 29.5-118 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

"Youth sports" means the same as that term is defined in § 29.5-400.

§ 29.5-301. Regulation and control of casino gaming; limitation.

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

B. The conduct of casino gaming shall be limited to the qualified locations established in § 29.5-307. The Commissioner shall be limited to the issuance of a single operator's license for each such qualified location.

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

§ 29.5-302. Additional powers of the Commissioner.

In addition to the powers and duties set forth in § 29.5-102, the Commissioner shall:

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

2. Issue an operator's license only to a person who meets the criteria of § 29.5-309.

3. Suspend, revoke, or refuse to renew any license or permit issued pursuant to this chapter.

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

5. Report immediately, upon the receipt of a complaint of an alleged criminal violation of this chapter, such complaint to the Commission's general or special counsel hired by the Commissioner pursuant to

§ 29.5-102, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action.

6. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with this chapter and Board regulations.

7. Compel any person holding a license or permit pursuant to this chapter to file with the Commission such information as shall appear to the Commissioner to be necessary for the performance of the Commission's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.

8. Impose a fine or penalty not to exceed $1 million upon any person determined, in proceedings commenced pursuant to § 29.5-305, to have violated any of the provisions of this chapter or regulations promulgated by the Board.

9. Report annually to the Governor and the General Assembly on the expenses incurred in the regulation of casino gaming operations. Such annual report shall also include recommendations for changes in this chapter, as the Commissioner and Board deem necessary or desirable.

10. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the operation or regulation of casino gaming in the Commonwealth.

§ 29.5-303. Additional powers and duties of the Board; regulations.

In addition to the powers and duties set forth in § 29.5-104, the Board shall have the power and duty to:

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

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

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

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

§ 29.5-304. Fingerprints and background investigations.

The Commission, in conjunction with an accredited law-enforcement agency, shall conduct a background investigation, including a criminal history records check and fingerprinting, of the following individuals: (i) every individual applying for a license or permit pursuant to this chapter; (ii) every individual who is an officer, director, or principal of a licensee or applicant for a license and every employee of the licensee who conducts gaming operations; (iii) all security personnel of any licensee; and (iv) all permit holders and officers, directors, principals, and employees of permit holders whose duties relate to gaming operations in the Commonwealth. Each such individual shall submit his fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for a national criminal records search and to the Department of State Police for a Virginia criminal history records check. The results of the background check and national and state criminal records check shall be returned to the Commission.

§ 29.5-305. Hearing and appeal.

Any person aggrieved by a refusal of the Commissioner to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a fine, or any other action of the Commission 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.

§ 29.5-306. Injunction.

The Commissioner may apply to the appropriate circuit court for an injunction against any person who has violated or may violate any provision of this chapter, Board regulation, or final decision of the Commissioner. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

Article 2.

Eligible Host City; Certification of Preferred Casino Gaming Operator.

§ 29.5-307. Eligible host city; certification of preferred casino gaming operator.

A. The conduct of casino gaming shall be limited to the following eligible host cities:

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

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

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

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

5. Any city (i) in which at least 17 percent of the assessed value of all real estate in such city is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2016; (ii) that had a poverty rate of at least 21 percent in 2019, according to data provided by the U.S. Census Bureau; and (iii) that had an annual unemployment rate of at least 13 percent in 2020, according to data provided by the U.S. Bureau of Labor and Statistics.

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

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

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

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

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

5. Security plans for the proposed casino gaming establishment.

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

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

8. The best financial interest of the city.

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

C. The Commissioner shall, upon request of any eligible host city, provide a list of resources that may be of assistance in evaluating the technical merits of any proposal submitted pursuant to this section, provided that selection of the preferred casino gaming operator shall be at the city's sole discretion.

D. The eligible host city described in subdivision A 4 shall provide substantial and preferred consideration to a proposer who is a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the Assistant Secretary-Indian Affairs for the U.S. Department of the Interior as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.).

E. An eligible host city shall promptly submit its preferred casino gaming operator to the Commission for review prior to scheduling the referendum required by § 29.5-325. An eligible host city shall include with the submission any written or electronic documentation considered as part of the criteria in subsection B, including any memorandums of understanding, incentives, development agreements, land purchase agreements, or local infrastructure agreements. The Commissioner shall conduct a preliminary review of the financial status and ability of the preferred casino gaming operator to operate and properly support ongoing operations in an eligible host city, as well as current casino operations in other states and territories. The Commissioner shall conduct such review within 45 days of receipt of the submission by the eligible host city. An eligible host city and preferred casino gaming operator shall fully cooperate with all necessary requests by the Commissioner in that regard. Upon successful preliminary review, the Commissioner shall certify approval for the eligible host city to proceed to the referendum required by § 29.5-325. The Board shall develop guidelines establishing procedures and criteria for conducting the preliminary review required by this subsection. Certification by the Commissioner to proceed to referendum shall in no way entitle the *preferred casino gaming operator to approval of any application to operate a casino gaming establishment.*

§ 29.5-308. Regional Improvement Commission.

There is hereby established the Regional Improvement Commission (the RIC). The membership of the RIC shall consist of one member appointed by the local governing body of each jurisdiction composing the transportation district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that includes the eligible host city described in subdivision A 3 of § 29.5-307. Each member shall be appointed to serve a two-year term. Notwithstanding the provisions of subdivision B 1 of § 29.5-327, for a casino gaming establishment located in the eligible host city described in subdivision A 3 of § 29.5-307, such transfer, otherwise returned to the city where it was collected, shall instead be made to the RIC. The purpose of the RIC shall be to (i) receive disbursements made to it; (ii) establish funding priorities for member localities related to improvements in the areas of education, transportation, and public safety; and (iii) make annual payments divided equally among the jurisdictions to fund the established priorities as determined by the RIC.

Article 3.

Licenses and Supplier's Permits.

§ 29.5-309. Operator's license required; capital investment; equity interest; transferability; fee.

A. No person shall operate a casino gaming establishment unless he has obtained an operator's license issued by the Commissioner in accordance with the provisions of this chapter and the regulations promulgated pursuant to this chapter.

B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall (i) make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming establishment.

C. A license issued under the provisions of this chapter shall be transferable, provided that the Commissioner has approved the proposed transfer and all licensure requirements are satisfied at the time the transfer takes effect.

D. A nonrefundable fee of $15 million shall be paid by the applicant to the Commission upon the issuance of a license and upon any subsequent transfer of a license to operate a casino gaming establishment. Such fees shall be deposited by the Commission into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license for online sports betting pursuant to Chapter 4 (§ 29.5-400 et seq.) or any subsequently created online sports betting license.

§ 29.5-310. Submission of preferred casino gaming operator by eligible host city; application for operator's license; penalty.

A. If a majority of those voting in a referendum held pursuant to § 29.5-325 vote in the affirmative, the eligible host city shall certify its preferred casino gaming operator and submit such certification to the Commission within 30 days.

B. Any preferred casino gaming operator desiring to operate a casino gaming establishment shall file with the Commission an application for an operator's license. Such application shall be filed at the place prescribed by the Board and shall be in such form and contain such information as prescribed by the Board, including the following:

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

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

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

4. A description of the casino gaming establishment in which such gaming operations are to be conducted, the city where such casino gaming establishment will be located, and the applicant's capital investment plan for the site. The Board shall require such information about a casino gaming establishment and its location as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter and whether gaming operations at such location will be in furtherance of the purposes of this chapter;

5. Such information relating to the financial responsibility of the applicant, including the applicant's financing plan for the casino gaming establishment, and the applicant's ability to perform under its license as the Board considers appropriate;

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

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

8. Such information necessary to enable the Commissioner to review the application based upon the best financial interests of the Commonwealth;

9. Such information necessary to enable the Commissioner to authorize on-premises mobile casino gaming pursuant to this chapter;

10. Submission of the following: (i) a minority investment plan disclosing any equity interest owned by a minority individual or minority-owned business or the applicant's efforts to seek equity investment from minority individuals or minority-owned businesses and (ii) a plan for the participation of minority individuals or minority-owned businesses in the applicant's purchase of goods and services related to the casino gaming establishment. As used in this subdivision, "minority individual" and "minority-owned business" mean the same as those terms are defined in § 2.2-1604; and

11. Any other information that the Board in its discretion considers appropriate.

C. A nonrefundable application fee of $50,000 shall be paid for each principal at the time of filing to defray the costs associated with the background investigation conducted for the Commission. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Commission. The Board may establish regulations calculating the reasonable costs to the Commission in performing its functions under this chapter and allocating such costs to the applicants for licensure at the time of filing.

D. Any license application from an Indian tribe as described in subsection D of § 29.5-307 shall certify that the material terms of the relevant development agreements between the Indian tribe and any development partner have been determined in the opinion of the Office of General Counsel of the National Indian Gaming Commission after review not to deprive the Indian tribe of the sole proprietor interest in the gaming operations for purposes of federal Indian gaming law.

E. Any application filed pursuant to this chapter shall be verified by the oath or affirmation of the applicant. Any person who knowingly makes a false statement on an application is guilty of a Class 4 felony.

F. The licensed operator shall be the person primarily responsible for the gaming operations under its license and compliance of such operations with the provisions of this chapter.

G. The Commissioner may use or rely on any application, supporting documentation, or information submitted pursuant to § 29.5-402 in reviewing and verifying an application submitted pursuant to this chapter.

§ 29.5-311. Issuance of operator's license to preferred casino gaming operator; standards for licensure; temporary casino gaming allowed under certain conditions.

A. If a preferred casino gaming operator, as certified by the applicable eligible host city, submits an application that meets the standards for licensure set forth in this chapter, the Commissioner shall issue an operator's license to such preferred casino gaming operator. The Commissioner shall not consider an application from any applicant that has not been certified as a preferred casino gaming operator by an eligible host city.

B. The Commissioner may issue an operator's license to an applicant only if he finds that:

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

2. The applicant has established a policy requiring all license and permit holders who interact directly with the public in the casino gaming establishment to complete a training course acceptable to the Board in how to recognize and report suspected human trafficking;

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

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

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

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

7. All principals meet the criteria of this subsection and have submitted to the jurisdiction of the courts of the Commonwealth, and all nonresident principals have designated the Commissioner as their agent for receipt of process;

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

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

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

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

C. The Commissioner shall deny a license to an applicant if he finds that for any reason the issuance of a license to the applicant would reflect adversely on the honesty and integrity of the casino gaming industry in the Commonwealth or that the applicant, or any officer, principal, manager, or director of the applicant:

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

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

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

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

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

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

D. The Commissioner shall make a determination regarding whether to issue the operator's license within 12 months of the receipt of a completed application.

E. The Commissioner shall be limited to the issuance of one operator's license for each eligible host city.

F. If, at the time of application, the applicant has not satisfied the capital investment requirement of at least $300 million pursuant to subsection B of § 29.5-309 but otherwise meets the standards for licensure set forth in this chapter, the Commissioner shall issue the operator's license, which, prior to satisfying the capital investment requirement, may not be used to conduct gaming other than temporary casino gaming pursuant to subsection G.

G. The Commissioner may authorize casino gaming to occur on a temporary basis for a period of one year under the following conditions:

1. The request to authorize casino gaming is made by a preferred casino gaming operator that has been issued a license consistent with this section.

2. The preferred casino gaming operator has submitted as a part of its application for licensure a construction schedule for a casino gaming establishment that has been approved by the eligible host city and the Commissioner.

3. The temporary casino gaming is to be conducted at the same site referenced in the referendum held pursuant to § 29.5-325.

4. The preferred casino gaming operator has secured suppliers and employees holding the appropriate permits required by this chapter and sufficient for the routine operation of the site where the temporary casino gaming is authorized.

5. A performance bond is posted in an amount acceptable to the Board.

H. No portion of any facility developed with the assistance of any grants or loans provided by a redevelopment and housing authority created pursuant to § 36-4 shall be used as a casino gaming establishment.

The Commissioner may renew the authorization to conduct temporary casino gaming for an additional year if he determines that the preferred casino gaming operator has made a good faith effort to comply with the approved construction schedule.

I. An operator issued a license under this chapter shall not be precluded from operating a sports betting facility for individuals to participate in sports betting activities in a casino gaming establishment, which may include in-person sports betting where the bettor places a bet directly with an employee of the casino or the sports betting permit holder, or through a kiosk or device.

§ 29.5-312. Duration and form of operator's license; bond.

A. A casino gaming operator license under this chapter shall be valid for a period of 10 years from its date of issuance but shall be reviewed no less frequently than annually to determine compliance with this chapter and Board regulations. Such annual review shall include a certification by the eligible host city of the status of the operator's compliance with local ordinances and regulations. If the certification states that the operator is not in compliance, the Commissioner shall require the operator to submit a plan of compliance, corrective action, or request for variance.

B. The Board shall establish by regulation the criteria and procedures for license renewal and for amending licenses to conform to changes in a licensee's gaming operations. Such regulations shall require the operator to submit to the Commissioner any updates or revisions to the capital investment plan provided *with the initial license application pursuant to subdivision B 4 of § 29.5-310. Renewal shall not be unreasonably refused.*

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

§ 29.5-313. Records to be kept; reports; reinvestment projection.

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

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

C. Every five years the licensed operator shall submit to the Commission for review and approval a reinvestment projection related to the casino gaming establishment to cover the succeeding five-year period of operations.

§ 29.5-314. Electronic accounting and reporting requirements; annual audit of licensed gaming operations.

A. Each casino game that operates electronically shall be connected to a central monitoring and audit system established and operated by the Commission. Such system shall provide the ability to audit and account for terminal revenues and distributions in real time. The central monitoring and audit system shall collect the following information from each electronically operated casino game, as applicable: (i) cash in, (ii) cash out, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii) the number of plays of the game, (viii) the amounts paid to play the game, (ix) door openings, (x) power failures, (xi) remote activations and disabling, and (xii) any other information required by Board regulations.

B. Within 90 days after the end of each fiscal year, the licensed operator shall transmit to the Commission a third-party, independent audit of the financial transactions and condition of the licensee's total operations. All audits required by this section shall conform to Board regulations.

§ 29.5-315. Supplier's permits; penalty.

A. The Commissioner may issue a supplier's permit to any person upon application and payment of a nonrefundable application fee set by the Board, a determination by the Commissioner that the applicant is eligible for a supplier's permit, and payment of a $5,000 initial permit fee. A supplier's permit shall be renewed at a fee to be determined by the Board, not to exceed $5,000 per year of licensure. Such fees shall be deposited by the Commission into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119. The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of supplier's permits.

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

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

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

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

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

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

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

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

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

E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed gaming operation or manages any operation, including a computerized network, of a casino gaming establishment shall first obtain a supplier's permit. A supplier shall furnish to the Commission a list of all management services, equipment, devices, and supplies offered for sale or lease in connection with the games authorized under this chapter. A supplier shall keep books and records for the furnishing of casino gaming equipment, devices, and supplies to gaming operations separate and distinct from any other business that the supplier might operate. A supplier shall file a quarterly return with the Commission listing all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

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

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

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

§ 29.5-316. Denial of permit final.

The denial of a supplier's permit by the Commissioner shall be final unless appealed under § 29.5-305. A permit may not be applied for again for a period of five years from the date of denial without the permission of the Commissioner.

§ 29.5-317. Suspension or revocation of license or supplier's permit.

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

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

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

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

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

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

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

7. Other factors established by Board regulation.

B. Such action by the Commissioner shall be final unless appealed in accordance with § 29.5-305. Suspension or revocation of a license or permit for any violation shall not preclude criminal liability for such violation.

§ 29.5-318. Acquisition of interest in licensee or permit holder.

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

Article 4.

Service Permits.

§ 29.5-319. Service permit required.

No person shall participate in any gaming operation as a casino gaming employee or concessionaire or employee of either or in any other occupation that the Board has determined necessary to regulate in order to ensure the integrity of casino gaming in the Commonwealth unless such person possesses a service permit to perform such occupation issued by the Commissioner. The Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of service permits.

§ 29.5-320. Application for service permit.

A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form prescribed by the Board. The application shall be accompanied by a fee prescribed by the Board. Such fees shall be deposited by the Commission into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

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

§ 29.5-321. Consideration of service permit application.

A. The Commissioner shall promptly consider any application for a service permit and issue or deny such service permit on the basis of the information in the application and all other information provided, including any investigation he considers appropriate. If an application for a service permit is approved, the Commissioner shall issue a service permit containing such information as the Board considers appropriate.

B. The Commissioner shall deny the application and refuse to issue the service permit, which denial shall be final unless an appeal is taken under § 29.5-305, if he finds that the issuance of such service permit to such applicant would not be in the best interests of the Commonwealth or would reflect negatively on the honesty and integrity of casino gaming in the Commonwealth or that the applicant:

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

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

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

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

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

6. Has been convicted of a misdemeanor or felony involving unlawful conduct of wagering, fraudulent use of a gaming credential, unlawful transmission of information, touting, bribery, embezzlement, distribution or possession of drugs, excluding misdemeanor possession of marijuana, or any crime considered by the Commission to be detrimental to the honesty and integrity of casino gaming in the Commonwealth.

C. The Commissioner may refuse to issue a service permit if for any reason he determines the granting of such service permit is not consistent with the provisions of this chapter or its responsibilities or any regulations promulgated by any other agency of the Commonwealth.

§ 29.5-322. Suspension or revocation of service permit; civil penalty.

A. The Commissioner may suspend, revoke, refuse to renew, or assess a civil penalty against the holder of a service permit in a sum not to exceed $10,000, after notice and a hearing. Such service permit may, however, be temporarily suspended by the Commissioner without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the Commissioner. A service permit may be suspended, revoked, or refused renewal by the Commissioner for one or more of the following reasons:

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

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

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

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

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

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

7. Other factors established by Board regulation.

B. Actions taken by the Commissioner pursuant to this section shall be final unless appealed in accordance with § 29.5-305. Suspension or revocation of a service permit for any violation shall not preclude criminal liability for such violation.

Article 5.

Conduct of Casino Gaming; Local Referendum.

§ 29.5-323. Conduct of casino gaming.

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

1. Minimum and maximum wagers on games shall be set by Board regulations.

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

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

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

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

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

7. No person younger than 21 years of age shall be permitted to make a wager under this chapter or be present where casino gaming is being conducted. A licensee or permit holder may employ persons between the ages of 18 and 21 for positions in nongaming areas and such employees may traverse the gaming floor, while on duty.

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

9. No licensee or permit holder shall accept postdated checks in payment for participation in any gaming operation. No licensee or permit holder, or any person on the premises of a casino gaming establishment, shall extend lines of credit or accept any credit card or other electronic fund transfer in payment for participation in any gaming operation. A licensee or permit holder may accept prepaid access instruments. In order to transfer funds for gaming purposes, a prepaid access instrument shall be redeemed for tokens, chips, credits, electronic credits, electronic cash, or electronic cards or used in conjunction with an approved cashless wagering system or interactive gaming account. A licensee or permit holder may issue interest-free counter checks to a player provided (i) the player submits an application and (ii) the licensee or permit holder verifies funds sufficient to cover the face value of the counter check. Such counter checks shall be subject to the tax reporting requirements under state and federal law. Nothing shall preclude a player from making a wire transfer to licensees or permit holders.

B. Casino gaming wagers shall be conducted only with tokens, chips, electronic credits, electronic cash, or electronic cards purchased from a licensed casino gaming operator. The conversion of cash to tokens, chips, credits, electronic credits, electronic cash, or electronic cards at a slot machine or any other casino game is permissible and does not constitute conducting a wager. Such tokens, chips, credits, electronic credits, electronic cash, or electronic cards may be used only for the purpose of (i) making wagers on games, (ii) redeeming for cash or check, or (iii) making a donation to a charitable entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, provided that the donated tokens, chips, credits, electronic credits, electronic cash, or electronic cards are redeemed by the same charitable entity accepting the donation. The provisions of this subsection shall not apply to sports betting in a sports betting facility, which may be conducted using cash.

§ 29.5-324. Posting of illegal gaming tip line.

Every casino gaming operator shall post in a conspicuous place in its casino gaming establishment a sign that bears (i) the toll-free telephone number and website for the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police pursuant to § 52-54 for members of the public to report concerns about, or suspected instances of, illegal gaming activities and (ii) the toll-free telephone number for the National Problem Gambling Helpline.

§ 29.5-325. Local referendum required.

A. The Commissioner shall not grant any initial license to operate a gaming operation in an eligible host city until a referendum on the question of whether casino gaming shall be permitted in such city is approved by the voters of such city.

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

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

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

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

[ ] Yes

[ ] No"

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

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

F. A subsequent local referendum shall be required if a license has not been granted by the Commissioner within five years of the court order proclaiming the results of the election.

G. The governing body of any eligible host city that holds a local referendum pursuant to this section that subsequently fails shall be prohibited from holding another local referendum on the same question for a period of three years from the date of the last referendum.

Article 6.

Taxation.

§ 29.5-326. Tax rate on adjusted gross receipts.

A. A tax on the adjusted gross receipts of each licensed operator received from games authorized under this chapter shall be imposed as follows:

1. On the first $200 million of adjusted gross receipts of an operator each calendar year, a rate of 18 percent.

2. On the adjusted gross receipts of an operator that exceed $200 million but do not exceed $400 million each calendar year, a rate of 23 percent.

3. On the adjusted gross receipts of an operator that exceed $400 million each calendar year, a rate of 30 percent.

B. All tax revenues collected pursuant to the provisions of this section shall accrue to the Gaming Proceeds Fund and be allocated as provided in § 29.5-327.

C. The taxes imposed by this section shall be paid by the licensed operator to the Commission no later than the close of the fifth day of each month for the preceding month when the adjusted gross receipts were received and shall be accompanied by forms and returns prescribed by the Board. Revenues collected pursuant to this section shall be credited to the Gaming Proceeds Fund to be appropriated as set forth in § 29.5-327. The Commissioner may suspend or revoke the license of an operator for willful failure to submit the wagering tax payment or the return within the specified time.

D. The tax imposed under this section shall not apply to the receipts of a licensed operator from sports betting, whether such receipts were generated from a sports betting facility or sports betting platform; instead, such receipts shall be taxable under § 29.5-407.

§ 29.5-327. Gaming Proceeds Fund; distribution of revenue.

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

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

1. The following amounts shall be distributed to the city in which they were collected by warrants of the Comptroller drawn on the State Treasurer on a quarterly basis:

a. An amount equal to a six percent tax on the first $200 million of adjusted gross receipts;

b. An amount equal to a seven percent tax on the adjusted gross receipts that exceed $200 million but do not exceed $400 million; and

c. An amount equal to an eight percent tax on the adjusted gross receipts that exceed $400 million.

2. For any casino gaming establishment operated by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the Assistant Secretary-Indian Affairs of the U.S. Department of the Interior as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.), an amount equal to a tax of one percent on the adjusted gross receipts of such establishment shall be deposited in the Virginia Indigenous People's Trust Fund established pursuant to § 2.2-401.01.

3. Eight-tenths of one percent of the Fund shall be deposited in the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

4. Two-tenths of one percent of the Fund shall be deposited in the Family and Children's Trust Fund established pursuant to § 63.2-2100.

5. Any remaining revenues not apportioned pursuant to subdivisions 1 through 4 shall be deposited in the School Construction Fund established pursuant to § 22.1-140.1.

Article 7.

Prohibited Acts; Penalties.

§ 29.5-328. Illegal operation; penalty.

A. No person shall:

1. Operate casino gaming where wagering is used or to be used without a license issued by the Commissioner.

2. Operate casino gaming where wagering is permitted other than in the manner specified by this chapter.

3. Offer, promise, or give anything of value or benefit to a person who is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Commissioner, a Commission employee, or a local governing body.

4. Solicit or knowingly accept a promise of anything of value or benefit while the person is connected with a gaming operation, including an officer or employee of a licensed operator or permit holder, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence *the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of a member of the Board, the Commissioner, a Commission employee, or a local governing body.*

5. Use or possess with the intent to use a device to assist in:

a. Projecting the outcome of a game;

b. Keeping track of the cards played;

c. Analyzing the probability of the occurrence of an event relating to a game; or

d. Analyzing the strategy for playing or betting to be used in a game except as permitted by Board regulation.

6. Cheat at gaming.

7. Manufacture, sell, or distribute any card, chip, dice, game, or device that is intended to be used to violate any provision of this chapter.

8. Alter or misrepresent the outcome of a game on which wagers have been made after the outcome is made sure but before it is revealed to the players.

9. Place a bet after acquiring knowledge, not available to all players, of the outcome of the game that is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome.

10. Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value in or from a game, with intent to defraud, without having made a wager contingent on winning the game or claim, collect, or take an amount of money or thing of value of greater value than the amount won.

11. Use counterfeit chips or tokens in a game.

12. Possess any key or device designed for the purpose of opening, entering, or affecting the operation of a game, drop box, or electronic or mechanical device connected with the game or for removing coins, tokens, chips, or other contents of a game. This subdivision does not apply to a casino gaming licensee or employee of a casino gaming licensee acting in furtherance of the employee's employment.

B. Any person convicted of a violation of this section is guilty of a Class 6 felony, and any person convicted of a violation of subsection A shall be barred for life from gaming operations under the jurisdiction of the Commission.

§ 29.5-329. Fraudulent use of credential; penalty.

A. Any person, other than the lawful holder thereof, who (i) has in his possession (a) any credential, license, or permit issued by the Commissioner, or (b) any forged or simulated credential, license, or permit of the Commission, and (ii) uses such credential, license, or permit for the purposes of misrepresentation, fraud, or touting, is guilty of a Class 4 felony.

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

§ 29.5-330. Prohibition on persons younger than 21 years of age placing wagers and sports betting on youth sports; penalty.

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

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

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

§ 29.5-331. Conspiracies and attempts to commit violations; penalty.

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

B. 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.

§ 29.5-332. Civil penalties.

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

§ 29.5-333. Use of the phrase "Virginia is for Bettors" prohibited; civil penalty.

A. No licensee, or any affiliate thereof, shall use the phrase "Virginia is for Bettors" in an advertisement in association with its product or service. Any licensee, or affiliate thereof, that violates this section shall be subject to a civil penalty of not more than $50,000. The Commissioner shall enforce the provisions of this section.

B. All civil penalties collected pursuant to this section shall accrue to the general fund.

Article 8.

On-Premises Mobile Casino Gaming.

§ 29.5-334. Federal law applicable.

On-premises mobile casino gaming shall be subject to the provisions of, and preempted and superseded by, any applicable federal law.

§ 29.5-335. Authorized on-premises mobile casino gaming.

On-premises mobile casino gaming is prohibited except when offered by a casino gaming operator to individuals who participate in on-premises mobile casino gaming on the premises of the casino gaming establishment. Any casino gaming operator that offers on-premises mobile casino gaming shall comply with any regulations promulgated by the Board related to on-premises mobile casino gaming.

§ 29.5-336. Location of primary on-premises mobile casino gaming operation.

A. A casino gaming operator's primary on-premises mobile casino gaming operation, including facilities, equipment, and personnel who are directly engaged in the conduct of on-premises mobile casino gaming, shall be located within a restricted area on the premises of the casino gaming establishment. Backup equipment used on a temporary basis pursuant to regulations promulgated by the Board to conduct on-premises mobile casino gaming may, with the approval of the Commissioner, be located outside the territorial limits of a casino gaming establishment.

B. Facilities used to conduct and support on-premises mobile casino gaming shall:

1. Be arranged in a manner promoting optimum security;

2. Include a closed circuit visual monitoring system according to specifications approved by the Board, with access on the premises to the system or its signal provided to the Commission;

3. Not be designed in any way that might interfere with the ability of the Commission to supervise on-premises mobile casino gaming operations; and

4. Comply in all respects with regulations of the Board pertaining thereto.

§ 29.5-337. On-premises mobile casino gaming accounts.

A. A casino gaming operator may offer on-premises mobile casino gaming only to an individual who has established an on-premises mobile casino gaming account and uses such account to place wagers as follows:

1. Any wager shall be placed directly with the casino gaming operator by the account holder;

2. The casino gaming operator shall verify the account holder's physical presence on the premises of the casino gaming establishment; and

3. The account holder shall provide the casino licensee with the correct authentication information for access to the wagering account.

B. A casino gaming operator shall not accept a wager in an amount in excess of funds on deposit in the account of the individual placing the wager.

§ 29.5-338. Disposition of inactive, dormant accounts.

All amounts remaining in inactive or dormant on-premises mobile casino gaming accounts for such period and under such conditions as established by regulation by the Board shall be closed. Any funds remaining in the account at such time shall be paid 50 percent to the casino gaming operator and 50 percent to the general fund. Before closing an account pursuant to this section, the casino gaming operator shall attempt to contact the account holder by mail, phone, and electronic mail.

§ 29.5-339. Assistance to people with gambling problem.

A. In order to assist those persons who may have a gambling problem, a casino gaming operator shall:

1. Cause the words "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER," or some comparable language approved by the Commission, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to be displayed prominently at log-on and log-off times to any person visiting or logged onto on-premises mobile casino gaming; and

2. Provide a mechanism by which an account holder may establish the following controls on wagering activity through the wagering account:

a. A limit on the amount of money deposited within a specified period of time and the length of time the account holder will be unable to participate in gaming if the holder reaches the established deposit limit; and

b. A temporary suspension of gaming through the account for any number of hours or days.

B. The casino gaming operator shall not send gaming-related electronic mail to an account holder while gaming through his account is suspended, if the suspension is for at least 72 hours. The casino gaming operator shall provide a mechanism by which an account holder may change these controls, except that, while gaming through the wagering account is suspended, the account holder may not change gaming controls until the suspension expires, but the account holder shall continue to have access to the account and shall be permitted to withdraw funds from the account upon proper application therefor.

§ 29.5-340. Offering of on-premises mobile casino gaming without approval; penalties.

Any person who offers on-premises mobile casino gaming in violation of this chapter or regulations promulgated pursuant to this chapter is guilty of a Class 6 felony and subject to a fine of not more than $25,000 and, in the case of a person other than a natural person, to a fine of not more than $100,000.

§ 29.5-341. Tampering with equipment; penalties.

A. Any person who knowingly tampers with software, computers, or other equipment used to conduct on-premises mobile casino gaming to alter the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the Board is guilty of a Class 5 felony and subject to a fine of not more than $50,000 and, in the case of a person other than a natural person, to a fine of not more than $200,000.

B. In addition to the penalties provided in subsection A, an employee of the casino gaming operator who violates this section shall have his permit revoked and shall be subject to such further penalty as the Commission deems appropriate.

C. In addition to the penalties provided in subsection A, a casino gaming operator that violates this section shall have its license to conduct casino gaming suspended for a period determined by the Commissioner and shall be subject to such further penalty as the Commission deems appropriate.

§ 29.5-342. Tampering affecting odds, payout; penalties.

A. Any person who knowingly offers or allows to be offered any on-premises mobile casino game that has been tampered with in a way that affects the odds or the payout of a game or disables the game from operating according to the rules of the game as promulgated by the Board is guilty of a Class 5 felony and subject to a fine of not more than $50,000 and, in the case of a person other than a natural person, to a fine of not more than $200,000.

B. In addition to the penalties provided in subsection A, an employee of the casino gaming operator who violates this section shall have his permit suspended for a period of not less than 30 days.

C. In addition to the penalties provided in subsection A, a casino gaming operator that violates this section shall have its license to conduct casino gaming suspended for a period of not less than 30 days.

§ 29.5-343. Facilities permitted to conduct on-premises mobile casino gaming; violations, penalties.

No person shall make its premises available for on-premises mobile casino gaming or advertise that its premises may be used for such purpose, other than a casino gaming operator that (i) has located all of its equipment used to conduct on-premises mobile casino gaming, including computers, servers, monitoring rooms, and hubs, on the premises of its casino gaming establishment and (ii) offers on-site mobile casino gaming only to individuals who participate in such gaming on the premises of the casino gaming establishment. Any person that is determined by the Commission to have violated the provisions of this section shall be subject to a penalty of $1,000 per player per day for making its premises available for on-premises mobile casino gaming and of $10,000 per violation for advertising that its premises may be used for such purpose.

§ 29.5-344. Taxation.

Any gross receipts from on-premises mobile casino gaming shall be included in a casino gaming operator's adjusted gross receipts and subject to taxation pursuant to the provisions of §§ 29.5-326 and 29.5-327.

CHAPTER 4.

SPORTS BETTING.

Article 1.

General Provisions.

§ 29.5-400. Definitions.

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise paid out as winnings to bettors, and the value of all bonuses or promotions provided to patrons as an incentive to place or as a result of their having placed internet sports betting wagers in an operator's first 12 months of operations;

2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to § 29.5-104, of gross revenue minus all cash paid out as winnings to bettors;

3. If the permit holder is a significant infrastructure limited licensee, as defined in § 29.5-601, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 13 of § 29.5-604; and

4. All excise taxes on sports betting paid pursuant to federal law.

"Amateur sports" means any sports or athletic event that is not professional sports, college sports, Virginia college sports, or youth sports. "Amateur sports" includes domestic, international, and Olympic sports or athletic events. "Amateur sports" does not include charitable gaming, as defined in § 29.5-200; fantasy contests, as defined in § 29.5-500; or horse racing, as defined in § 29.5-601.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and the immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether

collected or not, received by a permittee from its sports betting operations.

"Major league sports franchise" means a professional baseball, basketball, football, hockey, or soccer team that is at the highest-level league of play for its respective sport.

"Motor sports facility" means an outdoor motor sports facility that hosts a National Association for Stock Car Auto Racing (NASCAR) national touring race.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Permit holder" means a person to which the Commissioner issues a permit pursuant to §§ 29.5-402 and 29.5-403.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns, or other information as may be prescribed by the Board by regulation.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a permit holder or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity. "Principal" includes any individual who is employed in a managerial capacity for a sports betting platform or sports betting facility on behalf of a permit holder.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 29.5-200; fantasy contests, as defined in § 29.5-500; or horse racing, as defined in § 29.5-601.

"Prohibited conduct" means any statement, action, or other communication intended to influence, manipulate, or control a betting outcome of a sports event or of any individual occurrence or performance in a sports event in exchange for financial gain or to avoid financial or physical harm. "Prohibited conduct" includes statements, actions, and communications made to a covered person by a third party. "Prohibited conduct" does not include statements, actions, or communications made or sanctioned by a sports team or sports governing body.

"Proposition bet" means a bet on an individual action, statistic, occurrence, or non-occurrence to be determined during an athletic event and includes any such action, statistic, occurrence, or non-occurrence that does not directly affect the final outcome of the athletic event to which it relates.

"Sports betting" means placing wagers on professional sports, college sports, amateur sports, sporting events, or any other event approved by the Commissioner, and any portion thereof, and includes placing wagers related to the individual performance statistics of athletes in such sports and events. "Sports betting" includes any system or method of wagering approved by the Commissioner, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. "Sports betting" does not include participating in charitable gaming authorized by Chapter 2 (§ 29.5-200 et seq.); participating in fantasy contests authorized by Chapter 5 (§ 29.5-500 et seq.); wagering on horse racing, historical horse racing, or simulcast horse racing authorized by Chapter 6 (§ 29.5-600 et seq.); or participating in any lottery game authorized under Subtitle II (§ 29.5-700 et seq.). "Sports betting" does not include placing a wager on a college sports event in which a Virginia public or private institution of higher education is a participant.

"Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment licensed pursuant to Chapter 3 (§ 29.5-300 et seq.) that is designated for sports betting.

"Sports betting permit" means a permit to operate a sports betting platform or sports betting facility issued pursuant to the provisions of §§ 29.5-402, 29.5-403, and 29.5-404.

"Sports betting platform" means a website, app, or other platform accessible via the internet or mobile, wireless, or similar communications technology that sports bettors use to participate in sports betting.

"Sports betting program" means the program established by the Board to allow sports betting as described in this chapter.

"Sports bettor" means a person physically located in the Commonwealth who participates in sports betting.

"Sports event" or "sporting event" means professional sports, college sports, amateur sports, and any athletic event, motor race event, electronic sports event, competitive video game event, or any other event approved by the Commissioner.

"Sports governing body" means an organization, headquartered in the United States, that prescribes rules and enforces codes of conduct with respect to a professional sports or college sports event and the participants therein. "Sports governing body" includes a designee of the sports governing body.

"Stadium" means the physical facility that is the primary location at which a major league sports franchise hosts athletic events and any appurtenant facilities.

"Tier 1 bet" means a bet that is placed using the internet and that is not a tier 2 bet.

"Tier 2 bet" means a bet that is placed using the internet and that is placed after the event it concerns has started.

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

"Youth sports" means an athletic event (i) involving a majority of participants younger than 18 years of age or (ii) in which at least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located. However, if an athletic event meets the definition of college sports or professional sports, such event shall not be considered youth sports regardless of the age of the participants. An international athletic event organized by the International Olympic Committee shall not be considered to be youth sports, regardless of the age of the participants.

§ 29.5-401. Additional powers and duties of the Commissioner; reporting.

A. In addition to the powers and duties set forth in § 29.5-102, the Commissioner may:

1. Require bond or other surety satisfactory to him from permit holders in such amount as provided in the rules and regulations of the Board adopted under this chapter;

2. Suspend, revoke, or refuse to renew any permit issued pursuant to this chapter or the rules and regulations adopted under this chapter; and

3. Enter into contracts for the operation of the sports betting program, and enter into contracts with other states related to sports betting, provided that a contract awarded or entered into by the Commissioner shall not be assigned by the holder thereof except by specific approval of the Commissioner; and

B. The Commissioner shall:

1. Certify monthly to the State Comptroller and the Board a full and complete statement of sports betting revenues and expenses for the previous month;

2. Report monthly to the Governor, the Secretary of Finance, and the Chairs of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total sports betting revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of sports betting revenues and expenses, to the Governor and the General Assembly, including recommendations for changes in this chapter as the Commissioner and Board deem prudent;

3. In accordance with sports betting program regulations, approve methods for sports bettors to fund sports betting accounts, including automated clearing house payments, credit cards, debit cards, wire transfers, and any other method that the Board determines is appropriate for sports betting;

4. Report immediately, upon the receipt of a complaint of an alleged criminal violation of this chapter, such complaint to the Commission's general or special counsel hired by the Commissioner pursuant to § 29.5-102, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action; and

5. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted under this chapter or to rectify undesirable conditions in connection with the administration or operation of the sports betting program.

Article 2.

Permits.

§ 29.5-402. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

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

2. Pay to the Commission a nonrefundable fee of $50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Commission. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Commission. The Board may establish regulations calculating the reasonable costs to the Commission in performing its functions under this chapter and allocating such costs to the applicants for licensure at the time of filing. The fees for each principal and any additional investigation costs paid to the Commission shall be deposited into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

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

1. The applicant's background in sports betting;

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

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

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

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

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

7. Any other information the Board deems necessary.

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

D. 1. The Commissioner shall not issue any permit pursuant to this chapter until the Board has established a consumer protection program and published a consumer protection bill of rights pursuant to § 29.5-104.

2. The Commissioner shall issue no fewer than four and no more than 12 permits pursuant to this section; however, if an insufficient number of applicants apply for the Commissioner to satisfy the minimum, this provision shall not be interpreted to direct the Commissioner to issue a permit to an unqualified applicant. A permit shall not count toward the minimum or maximum if it is (i) issued pursuant to subdivision 4 or 5 to a major league sports franchise or to the operator of a facility; (ii) issued pursuant to subdivision 6 to an applicant that operates or intends to operate a casino gaming establishment; or (iii) revoked, expires, or otherwise becomes not effective.

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

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

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

c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified in § 29.5-404;

d. Whether the applicant has demonstrated to the Commission that it has made serious, good-faith efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined in § 2.2-1604;

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

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

g. Any other factor the Board considers relevant.

4. In issuing permits to operate sports betting platforms and sports betting facilities, the Commissioner shall give substantial and preferred consideration to any applicant that has (i) made or intends to make a capital investment of at least $300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements; (ii) had its name submitted as a preferred casino gaming operator to the Commissioner by an eligible host city; and (iii) been certified by the Commissioner to proceed to a local referendum on whether casino gaming will be allowed in the locality in which the applicant intends to operate a casino gaming establishment.

5. In a manner as may be required by Board regulation, any entity that applies pursuant to subdivision 4 may demonstrate compliance with the requirements of an application, the duties of a permit holder, and any other provision of this chapter through the use of a partner, subcontractor, or other affiliate of the applicant.

E. The Commissioner shall make a determination on an initial application for a sports betting permit within 90 days of receipt. The Commissioner's action shall be final unless appealed in accordance with § 29.5-104.

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

1. The Commissioner reasonably believes the applicant will be unable to satisfy the duties of a permit holder as described in subsection A of § 29.5-404;

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

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

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

5. The applicant or its directors knowingly fail to comply with the provisions of this chapter or any requirements of the Commissioner;

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

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

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

9. The applicant's application is incomplete.

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

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

I. 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 chapter is guilty of a Class 1 misdemeanor.

J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the Commissioner issues a permit shall pay a nonrefundable fee of $250,000 to the Commission prior to the issuance of such permit. Such fees shall be deposited by the Commission into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

§ 29.5-403. Renewals of permits.

A. A permit issued pursuant to § 29.5-402 shall be valid for three years from the date issued.

B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal application, on forms prescribed by the Board, with a nonrefundable renewal fee of $200,000. Such fees shall be deposited into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

C. The Commissioner may deny a permit renewal if he finds grounds for denial as described in subsection F of § 29.5-402. The Commissioner's action shall be final unless appealed in accordance with § 29.5-104.

D. The Commissioner shall make a determination on an application for a renewal of a sports betting permit within 60 days of receipt. The Commissioner's action shall be final unless appealed in accordance with § 29.5-104.

§ 29.5-404. Duties of permit holders.

A. A permit holder shall ensure that its sports betting operation takes reasonable measures to:

1. Ensure that only persons physically located in the Commonwealth are able to place bets through its sports betting platform, if applicable;

2. Protect the confidential information of bettors using its sports betting platform or placing bets at its sports betting facility;

3. Prevent betting on events that are prohibited pursuant to § 29.5-409, underage betting as prohibited by § 29.5-410, and bets by persons who are prohibited from sports betting pursuant to § 29.5-411;

4. Allow persons to restrict themselves from placing bets with the permit holder, including sharing, at the person's request, his request for self-exclusion with the Commission for the sole purpose of disseminating the request to other permit holders;

5. Establish procedures to detect suspicious or illegal betting activity, including measures to immediately report such activity to the Commission;

6. Provide for the issuance of applicable tax forms to persons who meet the reporting threshold for income from sports betting; and

7. If applicable, allow sports bettors to establish and fund sports betting accounts over the internet on a sports betting platform, which may be funded through methods including automated clearing house payments, credit cards, debit cards, wire transfers, or any other method approved by the Commissioner under § 29.5-401.

B. A permit holder shall maintain records on:

1. All bets, including the bettor's personal information, the amount and type of bet, the time and location of the bet, and the outcome of the bet; and

2. Suspicious or illegal betting activity.

C. A permit holder shall disclose the records described in subsection B to the Commission upon request and shall maintain such records for at least three years after the related sports event occurs.

D. 1. If a sports governing body notifies the Commission that real-time information-sharing for bets placed on its sporting events is necessary and desirable, permit holders shall, as soon as is commercially reasonable, share the information required to be retained pursuant to subdivision B 1 of § 29.5-404 with the sports governing body or its designee with respect to bets on its sporting events. The information shared pursuant to this subsection shall be shared pseudonymously and does not include personal information associated with any bettor. A permit holder shall not be required to share any information that is required to be kept confidential under federal or state law.

2. A sports governing body shall use information shared pursuant to this subsection only for the purpose of integrity monitoring and shall not use such information for any commercial purpose. A sports governing body shall provide for security measures with respect to such information so as to prevent unauthorized access and distribution.

E. In advertising its sports betting operations, a permit holder shall ensure that its advertisements:

1. Do not target persons younger than 21 years of age;

2. Disclose the identity of the permit holder;

3. Provide information about, or links to, resources related to gambling addiction; and

4. Are not misleading to a reasonable person.

F. A permit holder shall not sublicense, convey, concede, or otherwise transfer its permit to a third party unless granted approval by the Commissioner. The Commissioner shall charge a nonrefundable fee of $200,000 for a permit transfer. Such fees shall be deposited into the Commonwealth Gaming Operations Fund established pursuant to § 29.5-119.

G. 1. A permit holder may operate its sports betting platform under a brand other than its own but is prohibited from holding itself out to the public as a sports betting operation under more than one brand, and a permit holder shall conspicuously display its utilized brand to sports bettors; however, if a permit holder is a major league sports franchise, it shall not be required to associate the name of its sports betting platform with the name of the major league sports franchise and shall be allowed to hold its sports betting platform out to the public under a separate brand name.

2. A permit holder is prohibited from cooperatively marketing its sports betting platform with any business issued a license pursuant to the provisions of Title 4.1. If casino gaming is authorized under the laws of the Commonwealth and a casino gaming operator is licensed by the Commissioner as a permit holder, the prohibition in this subdivision shall not apply to such operator, provided that such operator shall be authorized to cooperatively market only on the premises of its casino gaming establishment. A permit holder shall not be allowed an exemption from the prohibition in this subdivision unless (i) such permit holder complies with any applicable local zoning ordinances and (ii) the local governing body approves by ordinance cooperative marketing with respect to the permit holder's stadium or casino gaming establishment.

H. A permit holder shall not purchase or use any personal biometric data unless the permit holder has received written permission from the athlete's exclusive bargaining representative.

I. Permit holders shall at all times maintain cash reserves in amounts to be established by Board regulation.

§ 29.5-405. Suspension and revocation of permits; civil penalties.

If the Commissioner determines that a permit holder has violated this chapter, he may, with at least 15 days' notice and a hearing, (i) suspend or revoke the permit holder's permit and (ii) impose a monetary penalty of not more than $1,000 for each violation per day of this chapter. The Commissioner shall enforce civil penalties under this section and shall deposit all collected penalties to the general fund. The Commissioner's action shall be final unless appealed in accordance with § 29.5-104.

§ 29.5-406. Use of official league data.

A. A permit holder may use any data source for determining the result of a tier 1 bet.

B. A sports governing body may notify the Commission that it desires permit holders to use official league data to settle tier 2 bets. A notification under this subsection shall be made according to forms and procedures prescribed by the Board. The Commissioner shall notify each permit holder of the sports governing body's notification within five days after the Commission's receipt of the notification. If a sports governing body does not notify the Commission of its desire to supply official league data, a permit holder may use any data source for determining the result of a tier 2 bet on a professional sports event of the league governed by the sports governing body.

C. Within 60 days after the Commissioner notifies each permit holder as required under subsection B, permit holders shall use only official league data to determine the results of tier 2 bets on professional sports events of the league governed by the sports governing body, unless any of the following apply:

1. The sports governing body is unable to provide a feed, on commercially reasonable terms, of official league data to determine the results of a tier 2 bets, in which case permit holders may use any data source for determining the results of tier 2 bets until the data feed becomes available on commercially reasonable terms.

2. A permit holder demonstrates to the Commission that the sports governing body has not provided or offered to provide a feed of official league data to such permit holder on commercially reasonable terms, according to criteria identified in subsection D.

D. The Commissioner shall consider the following information in determining whether a sports governing body has provided or offered to provide a feed of official league data on commercially reasonable terms:

1. The availability of a sports governing body's official league data for tier 2 bets from more than one authorized source;

2. Market information regarding the purchase, in the Commonwealth and in other states, by permit holders of data from all authorized sources;

3. The nature and quantity of the data, including the quality and complexity of the process used for collecting the data; and

4. Any other information he deems relevant.

E. During any time period in which the Commissioner is determining whether official league data is available on commercially reasonable terms pursuant to the provisions of subsections C and D, a permit holder may use any data source for determining the results of any tier 2 bets. The Commissioner shall make a *determination under subsections C and D within 120 days after a permit holder notifies the Commission that it desires to demonstrate that a sports governing body has not provided or offered to provide a feed of official league data to the permit holder on commercially reasonable terms.*

Article 3.
Taxation.

§ 29.5-407. Tax on adjusted gross revenue.

A. There shall be imposed a tax of 15 percent on a permit holder's adjusted gross revenue.

B. The tax imposed pursuant to this section is due monthly to the Commission, and the permit holder shall remit it on or before the twentieth day of the next succeeding calendar month. If the permit holder's accounting necessitates corrections to a previously remitted tax, the permit holder shall document such corrections when it pays the following month's taxes.

C. If the permit holder's adjusted gross revenue for a month is a negative number, the permit holder may carry over the negative amount to a return filed for a subsequent month and deduct such amount from its tax liability for such month, provided that such amount shall not be carried over and deducted against tax liability in any month that is more than 12 months later than the month in which such amount was accrued.

§ 29.5-408. Distribution of tax revenue.

A. The Commission shall allocate 2.5 percent of the tax revenue collected pursuant to § 29.5-407 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

B. The Commission shall allocate the remaining 97.5 percent of the tax revenue collected pursuant to § 29.5-407 to the general fund.

Article 4.
Prohibited Acts; Penalties.

§ 29.5-409. Events on which betting is prohibited; penalty.

A. 1. No person shall place or accept a bet on youth sports.

2. No person shall place or accept a proposition bet on college sports.

3. No person shall place or accept a bet on Virginia college sports.

B. 1. A sports governing body may notify the Commission that it desires to restrict, limit, or prohibit sports betting on its sporting events by providing notice in accordance with requirements prescribed by the Board. A sports governing body also may request to restrict the types of bets that may be offered. Notwithstanding § 29.5-400, for purposes of this section, "sports governing body" includes any organization that is not headquartered in the United States and that otherwise meets the definition of "sports governing body."

2. For any request made pursuant to subdivision 1, the requester shall bear the burden of establishing to the satisfaction of the Commissioner that the relevant betting or other activity poses a significant and unreasonable integrity risk. The Commissioner shall seek input from affected permit holders before making a determination on such request.

3. If the Commissioner denies a request made pursuant to subdivision 1, the Commissioner shall give the requester notice and the right to be heard and offer proof in opposition to such determination in accordance with regulations established by the Board. If the Commissioner grants a request, the Board shall promulgate by regulation such restrictions, limitations, or prohibitions as may be requested.

4. A permit holder shall not offer or take any bets in violation of regulations promulgated by the Board pursuant to this subsection.

C. The prohibitions in subdivisions A 1 and 3 shall be limited to the single game or match in which a youth sports or Virginia college sports team is a participant. The prohibitions shall not be construed to prohibit betting on other games in a tournament or multigame event in which a youth sports or Virginia college sports team participates, so long as such other games do not have a participant that is a youth sports or Virginia college sports team.

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

§ 29.5-410. Underage betting prohibited; penalty.

A. No person shall knowingly accept or redeem a sports bet by, or knowingly offer to accept or redeem a sports bet on behalf of, a person younger than 21 years of age.

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

§ 29.5-411. Persons prohibited from sports betting; penalty.

A. The following persons shall be prohibited from sports betting:

1. The Commissioner and any Board member, officer, or employee of the Commission;

2. Any permit holder;

3. Any director, officer, owner, or employee of a permit holder and any relative living in the same household as such persons; and

4. Any officer or employee of any entity working directly on a contract with the Commission related to sports betting.

B. The persons described in subdivision A 3 shall be prohibited from sports betting only with respect to the related permit holder, but shall not be prohibited from placing sports bets with other permit holders.

C. Any competitor, coach, trainer, employee, or owner of a team in a professional or college sports event, or any referee for a professional or college sports event, shall be prohibited from placing a bet on any event in a league in which such person participates. In determining which persons are prohibited from placing wagers under this subsection, a permit holder shall use publicly available information and any lists of persons that a sports governing body may provide to the Commission.

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

§ 29.5-412. Operation and advertising of unpermitted facilities prohibited; penalty.

A. No person, except for a permit holder authorized pursuant to the provisions of this chapter, shall make its premises available for placing sports bets using the internet or advertise that its premises may be used for such purpose.

B. The Commissioner may impose a monetary penalty for each violation of this section. For a person determined to have made its premises available for placing sports bets using the internet, the penalty shall not exceed $1,000 per day per individual who places a sports bet. For a person determined to have advertised that its premises may be used for such purpose, the penalty shall not exceed $10,000 per violation.

§ 29.5-413. Use of the phrase "Virginia is for Bettors" prohibited; civil penalty.

A. No permit holder, or any affiliate thereof, shall use the phrase "Virginia is for Bettors" in an advertisement in association with its product or service. Any permit holder, or affiliate thereof, that violates this section shall be subject to a civil penalty of not more than $50,000. The Commissioner shall enforce the provisions of this section.

B. All civil penalties collected pursuant to this section shall accrue to the general fund.

§ 29.5-414. Reporting and investigating prohibited conduct.

If the Commission receives a complaint of prohibited conduct by an athlete, it shall notify the appropriate sport governing body of such athlete to review the complaint. The Commission and permit holders shall cooperate with investigations conducted by sports governing bodies or law-enforcement agencies. Such cooperation shall include providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers.

§ 29.5-415. Required direct notification to the Commission and to sports governing bodies.

A. A permit holder shall, as soon as commercially reasonable, report to the Commission any information relating to:

1. Criminal or disciplinary proceedings commenced against the permit holder in connection with its operations in the Commonwealth or in any other jurisdiction;

2. Abnormal betting activity or patterns that may indicate a risk to the integrity of a bet or wager;

3. Any potential breach of a sports governing body's rules and codes of conduct pertaining to sports betting, to the extent that such rules and codes of conduct are provided to and known by the permit holder;

4. Any conduct that may alter the outcome of an athletic event for purposes of financial gain, including match fixing; and

5. Suspicious or illegal wagering activities, including using funds derived from illegal activity to place bets, using bets to conceal or launder funds derived from illegal activity, using agents to place bets, and using false identification to place bets.

B. A permit holder shall, as soon as is commercially practicable, report the information described in subdivisions A 2, 3, and 4 to any sports governing body that may be affected by the activities described in subdivisions A 2, 3, and 4.

§ 29.5-416. Liquidity pools.

The Board may promulgate rules authorizing permit holders to offset loss and manage risk, directly or with a third party approved by the Commissioner, through the use of a liquidity pool in the Commonwealth or another jurisdiction so long as such permit holder, or an affiliate of such permit holder, is licensed by such jurisdiction to operate a sports betting business. However, a permit holder's use of a liquidity pool shall not eliminate its duty to ensure that it has sufficient funds available to pay bettors.

§ 29.5-417. Intermediate routing of electronic data.

All sports betting shall be initiated and received within the Commonwealth unless otherwise permitted by federal law. Consistent with the intent of the United States Congress as expressed in the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. § 5361 et seq., the intermediate routing of electronic data relating to lawful intrastate sports betting authorized under this chapter shall not determine the location in which such bet is initiated and received.

CHAPTER 5.
FANTASY CONTESTS.

§ 29.5-500. Definitions.

As used in this chapter, unless the context requires otherwise:

"Confidential information" means information related to the play of a fantasy contest by fantasy contest players obtained as a result of, or by virtue of, a person's employment.

"Entry fee" means cash or cash equivalent that is required to be paid by a fantasy contest participant to a fantasy contest operator in order to participate in a fantasy contest.

"Fantasy contest" includes any online fantasy or simulated game or contest with an entry fee in which (i) the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.

"Fantasy contest operator" or "operator" means a person or entity that offers fantasy contests for a cash prize to members of the public.

"Fantasy contest player" or "player" means a person who participates in a fantasy contest offered by a fantasy contest operator.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, 15 percent or more of the equity ownership of a fantasy contest operator or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 15 percent or more of the equity ownership of any such operator.

§ 29.5-501. Registration of fantasy contest operators required; application for registration; issuance of registration certificate; penalty.

A. No fantasy contest operator shall offer any fantasy contest in the Commonwealth without first being registered with the Commission. Applications for registration shall be on forms prescribed by the Board. Any registration issued by the Commissioner shall be valid for one year from the date of issuance.

B. The application for registration submitted by a fantasy contest operator shall contain the following information:

1. The name and principal address of the applicant; if a corporation, the state of its incorporation, the full name and address of each officer and director thereof, and, if a foreign corporation, whether it is qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address of each officer thereof;

2. The address of any offices of the applicant in the Commonwealth and its designated agent for process within the Commonwealth. If no such agent is designated, the applicant shall be deemed to have designated the Commissioner. If the operator does not maintain an office, the name and address of the person having custody of its financial records;

3. The place where and the date when the applicant was legally established and the form of its organization;

4. The names and addresses of the officers, directors, trustees, and principal salaried executive staff officer;

5. The name and address of each principal stockholder or member of such corporation; and

6. Such information as the Board deems necessary to ensure compliance with the provisions of this chapter.

C. Every registration filed pursuant to this chapter shall be accompanied by a nonrefundable, initial application fee set by the Board.

D. As a condition of registration, a fantasy contest operator shall submit evidence satisfactory to the Board that the operator has established and will implement procedures for fantasy contests that:

1. Prevent him or his employees and relatives living in the same household as the operator from competing in any public fantasy contest offered by such operator in which the operator offers a cash prize;

2. Prevent the sharing of confidential information that could affect fantasy contest play with third parties until the information is made publicly available;

3. Verify that any fantasy contest player is 21 years of age or older;

4. Ensure that players who are the subject of a fantasy contest are restricted from entering a fantasy contest that is determined, in whole or part, on the accumulated statistical results of a team of individuals in which such players are participants;

5. Allow individuals to restrict themselves from entering a fantasy contest upon request and take reasonable steps to prevent those individuals from entering the operator's fantasy contests;

6. Disclose the number of entries a single fantasy contest player may submit to each fantasy contest and take reasonable steps to prevent such players from submitting more than the allowable number; and

7. Segregate player funds from operational funds in separate accounts and maintain a reserve in the form of cash, cash equivalents, irrevocable letter of credit, bond, or a combination thereof in an amount sufficient to pay all prizes and awards offered to winning participants.

E. If the registration forms are filed online using a website approved by the Commissioner, the operator shall follow the procedures on that website for signing the forms.

F. Any operator that allows its registration to lapse, without requesting an extension of time to file, shall be required to resubmit an initial registration. An extension may be granted by the Commissioner upon receipt of a written request.

§ 29.5-502. Issuance of registration; denial of same.

A. The Commissioner shall consider all applications for registration and shall issue a valid registration to an applicant that meets the criteria set forth in this chapter.

B. The Commissioner shall deny registration to any applicant unless he finds that:

1. If the corporation is a stock corporation, such stock is fully paid and nonassessable and has been subscribed and paid for only in cash or property to the exclusion of past services and, if the corporation is a nonstock corporation, that there are at least five members;

2. All principal stockholders or members have submitted to the jurisdiction of the courts of the Commonwealth for the purposes of this chapter, and all nonresident principal stockholders or members have designated the Commissioner as their agent for receipt of process;

3. The applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder or require the resignation of any member who is or becomes unqualified for such position under subsection C; and

4. The applicant meets the criteria established by the Board for the granting of registration.

C. The Commissioner may deny registration to an applicant if he finds that the applicant, or any officer, partner, principal stockholder, or director of the applicant:

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

2. Is or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any fantasy contest in the Commonwealth or any other state or has been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the 10 years prior to the date of application for registration;

3. Has at any time knowingly failed to comply with the provisions of this chapter or of any requirements of the Board;

4. Has had a registration or permit to hold or conduct fantasy contests denied for just cause, suspended, or revoked in any other state or country;

5. Has legally defaulted in the payment of any obligation or debt due to the Commonwealth; or

6. Is not qualified to do business in the Commonwealth or is not subject to the jurisdiction of the courts of the Commonwealth.

D. Any operator applying for registration or renewal of a registration may operate during the application period unless the Commissioner has reasonable cause to believe that such operator is or may be in violation of the provisions of this chapter and the Commissioner requires such operator to suspend the operation of any fantasy contest until registration or renewal of registration is issued.

E. The Commissioner shall issue such registration within 60 days of receipt of the application for registration. If the registration is not issued, the Commissioner shall provide the operator with specific justification for not issuing such registration.

§ 29.5-503. Independent audit required; submission to Commission.

A registered operator shall (i) annually contract with a certified public accountant to conduct an independent audit, consistent with the standards accepted by the Board of Accountancy; (ii) annually contract with a testing laboratory recognized by the Commission to verify compliance with the provisions of subsection D of § 29.5-501; and (iii) submit to the Commission a copy of the (a) audit report and (b) report of the testing laboratory as required by clause (ii).

§ 29.5-504. Powers and duties of the Board and the Commission.

A. The Commission shall have all powers and duties necessary to carry out the provisions of this chapter. The Board may establish procedures deemed necessary to carry out the provisions of this chapter.

B. Whenever it appears to the Commission that any person has violated any provision of this chapter, it may apply to the appropriate circuit court for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

C. Whenever the Commission has reasonable cause to believe that a violation of this chapter may have occurred, the Commission, upon its own motion or upon complaint of any person, may investigate any fantasy contest operator to determine whether such operator has violated the provisions of this chapter. In the conduct of such investigation, the Commission:

1. May require or permit any person to file a statement in writing, under oath or otherwise as it determines, as to all facts and circumstances concerning the matter to be investigated;

2. May administer oaths or affirmations and, upon its own motion or upon request of any party, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangibles and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence; and

3. Shall report immediately, upon the receipt of a complaint of an alleged criminal violation of this chapter, such complaint to the Commission's general or special counsel hired by the Commissioner pursuant to § 29.5-102, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant *to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action.*

D. Any proceedings or hearings by the Commission under this chapter, where witnesses are subpoenaed and their attendance is required for evidence to be taken or any matter is to be produced to ascertain material evidence, shall take place within the City of Richmond.

E. Upon failure to obey a subpoena and upon reasonable notice to all persons affected thereby, the Commission may apply to the Circuit Court of the City of Richmond for an order imposing punishment for contempt of the subpoena or compelling compliance.

§ 29.5-505. Suspension or revocation of registration.

A. After a hearing with 15 days' notice, the Commissioner may suspend or revoke any registration or impose on such operator a monetary penalty of not more than $1,000 for each violation of this chapter, not to exceed $50,000, in any case where a violation of this chapter has been shown by a preponderance of the evidence. The Commissioner may revoke a registration if he finds that facts not known by him at the time he considered the application indicate that such registration should not have been issued.

B. The Commissioner may summarily suspend any registration for a period of not more than seven days, pending a hearing and final determination by the Board, if he determines that a violation of this chapter has occurred and emergency action is required to protect the public health, safety, and welfare. The Commission shall (i) schedule a hearing within seven business days after the registration is summarily suspended and (ii) notify the registered operator not less than five business days before the hearing of the date, time, and place of the hearing.

C. If any such registration is suspended or revoked, the Commissioner shall state his reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with § 29.5-506. Suspension or revocation of a registration issued by the Commissioner for any violation shall not preclude civil liability for such violation.

§ 29.5-506. Hearing and appeal.

Any person aggrieved by a denial of the Commissioner to issue a registration, the suspension or revocation of a registration, the imposition of a fine, or any other action of the Board 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 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 29.5-507. Fees and charges.

All fees, charges, and monetary penalties collected by the Commission as provided in this chapter shall be paid into a special fund of the state treasury. Such funds shall be used to finance the administration and operation of this chapter.

§ 29.5-508. Commission to adjust fees; certain transfer of money collected prohibited.

A. Nongeneral funds generated by fees collected in accordance with this chapter on behalf of the Commission and accounted for and deposited into a special fund by the Commissioner shall be held exclusively to cover the expenses of the Commission in administering this chapter and shall not be transferred to any other agency.

B. Following the close of any biennium, when the account for the Commission maintained under this chapter shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the Commission, it shall revise the fees levied by it for registration and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

§ 29.5-509. Public inspection of information filed with the Commission; charges for production.

A. Except as provided in subsection B, registrations required to be filed under this chapter shall be open to the public for inspection at such time and under such conditions as the Board may prescribe. A charge not exceeding $1 per page may be made for any copy of such documents as may be furnished to any person by the Commission.

B. Reports, data, or documents submitted to the Commission pursuant to the audit requirements of § 29.5-503 and records submitted to the Commission as part of an application for registration or renewal that contain information about the character or financial responsibility of the operator or its principal stockholders shall be deemed confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 29.5-510. Registration not endorsement.

No registered operator shall use or exploit the fact of registration under this chapter so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by the Commonwealth.

§ 29.5-511. Acquisition of interest in fantasy contest operator.

A. If any person acquires actual control of a registered operator, such person shall register with the Commission in accordance with § 29.5-501.

B. Where any such acquisition of control is without prior approval of the Commissioner, the Commissioner may suspend any registration he has issued to such operator, order compliance with this section, or take such other action as may be appropriate within his authority.

§ 29.5-512. Civil penalty.

In addition to the provisions of § 29.5-505, any person, firm, corporation, association, agent, or employee who knowingly violates any procedure implemented under subsection D of § 29.5-501 or any other provision of this chapter shall be liable for a civil penalty of not more than $1,000 for each such violation. Such amount shall be recovered in a civil action brought by the Commission and be paid into the Literary Fund.

§ 29.5-513. Fantasy contests conducted under this chapter not illegal gambling.

A. Nothing contained in Chapter 9 (§ 29.5-900 et seq.) shall be applicable to a fantasy contest conducted in accordance with this chapter. The award of any prize money for any fantasy contest shall not be deemed to be part of any gaming contract within the purview of § 11-14.

B. This section shall not apply to any sports betting or related activity that is lawful under Chapter 4 (§ 29.5-400 et seq.), which shall be regulated pursuant to such chapter.

§ 29.5-514. Liability imposed by other laws not decreased.

Except as provided in § 29.5-513, nothing contained in this chapter shall be construed as making lawful any act or omission that is now unlawful or as decreasing the civil or criminal liability of any person imposed by existing laws.

CHAPTER 6.

LIVE HORSE RACING, HISTORICAL HORSE RACING, AND SIMULCAST HORSE RACING WITH PARI-MUTUEL WAGERING.

Article 1.

General Provisions.

§ 29.5-600. Control of live horse racing, historical horse racing, and simulcast horse racing with pari-mutuel wagering.

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

B. The conduct of any horse racing or historical horse racing with pari-mutuel wagering, participation in such horse racing or wagering, and entrance to any place where such racing or wagering is conducted is a privilege that may be granted or denied by the Gaming Commission, the Racing Commission, and their duly authorized representatives in their discretion in order to effectuate the purposes set forth in this chapter.

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

D. This section shall not apply to any sports betting or related activity that is lawful under Chapter 3 (§ 29.5-300 et seq.) or 4 (§ 29.5-400 et seq.), which shall be regulated pursuant to such chapters.

§ 29.5-601. Definitions.

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

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act (15 U.S.C. § 3001 et seq.) in which an individual may establish an account with an entity, licensed by the Racing Commission, to place pari-mutuel wagers in person or electronically.

"Breakage," with respect to historical horse racing, means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents ($0.10).

"Breakage," with respect to horse racing other than historical horse racing, means the odd cents by which the amount payable on each dollar wagered exceeds one cent ($0.01).

"Commission" or "Gaming Commission" means the Virginia Gaming Commission established pursuant to § 29.5-101.

"Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" means the same as that term is defined in § 54.1-3401. The Racing Commission shall, by regulation, define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a racetrack to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Racing Commission.

"E-permit" means a historical horse racing employee permit issued pursuant to § 29.5-630 or a live horse *racing employee permit issued pursuant to § 29.5-631.*

"Executive Secretary" means the Executive Secretary of the Virginia Racing Commission appointed by the Commissioner pursuant to § 29.5-102.

"Force majeure" means an event reasonably beyond the ability of the Racing Commission to anticipate or control. "Force majeure" includes acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fires, explosions, epidemics, hurricanes, tornadoes, and governmental actions or restrictions.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Historical horse racing" means a form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a significant infrastructure limited licensee or (b) the recognized industry stakeholder organization licensed to own or operate such satellite facility.

"Historical horse racing license" means a license issued by the Commissioner authorizing the operation of historical horse racing at a licensed significant infrastructure facility or a licensed satellite facility.

"Horse racing" or "live horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted. Unless the context requires otherwise, "horse racing" does not include historical horse racing.

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

"Licensee" includes any person holding an owner's, operator's, or historical horse racing license pursuant to this chapter.

"Member" includes any person designated a member of a nonstock corporation, and any person who, by means of a pecuniary or other interest, in such corporation exercises the power of a member.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and includes pari-mutuel wagering on historical horse racing and simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

"Participant" means any person who (i) has an ownership interest in any horse entered to race in the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Racing Commission or in the conduct of a race meeting or pari-mutuel wagering there, including a horse owner, trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, vendor or employee thereof, track employee, or other position the Executive Secretary deems necessary to regulate to ensure the integrity of horse racing in the Commonwealth.

"Permit holder" includes any person holding a (i) historical horse racing employee permit (HHR e-permit) to participate in historical horse racing subject to the jurisdiction of the Virginia Gaming Commission or (ii) live horse racing employee permit (LHR e-permit) to participate in any horse racing subject to the jurisdiction of the Racing Commission or in the conduct of a race meeting or pari-mutuel wagering thereon.

"Person" means the same as that term is defined in § 1-230.

"Pool" means the amount wagered during a race meeting or during a specified period of a race meeting.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of the stock of any person that is a licensee, or who in concert with his spouse and immediate family members, has the power to vote or cause the vote of five percent or more of any such stock. However, "principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. § 78A et seq.), as amended, which holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Gaming Commission or the Racing Commission, as applicable.

"Race meeting" means the whole consecutive period of time during which live horse racing with pari-mutuel wagering is conducted by a licensee.

"Racetrack" means an outdoor course located in the Commonwealth that is laid out for live horse racing and is licensed by the Racing Commission.

"Racing Commission" means the Virginia Racing Commission established pursuant to § 29.5-602.

"Recognized industry stakeholder organization" means the nonprofit industry stakeholder organization recognized by the Racing Commission to include the recognized majority horsemen's group, a breeder's organization, and a licensed racetrack operator for the purpose of promoting, sustaining, and advancing horse racing within the Commonwealth.

"Recognized majority horsemen's group" means the organization recognized by the Racing Commission

as the representative of the majority of owners and trainers racing at race meetings subject to the Racing Commission's jurisdiction.

"Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee to the Gaming Commission or Racing Commission, as applicable, and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law, regulation, or contract approved by the Gaming Commission or Racing Commission, as applicable.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the Racing Commission.

"Significant infrastructure facility" means a horse racing facility that has been approved by a local referendum pursuant to § 29.5-634 and has a minimum racing infrastructure consisting of (i) a one-mile dirt racetrack for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

"Significant infrastructure limited licensee" means a person who owns or operates a significant infrastructure facility and holds a limited license under § 29.5-616.

"Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering.

"Steward" means a racing official, employed by the Executive Secretary, with powers and duties prescribed by Racing Commission regulations.

"Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated person if the Commission or Racing Commission, as applicable, finds that the holder of such interest or stock derives therefrom such control of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.

"Virginia Breeders Fund" means the fund established pursuant to § 29.5-611 to foster the industry of breeding race horses in the Commonwealth.

§ 29.5-602. Virginia Racing Commission; purpose; membership; compensation; duties.

A. The Virginia Racing Commission is established as a policy commission for the purpose of controlling and regulating all aspects of the horse racing industry in the Commonwealth with respect to live and simulcast horse racing with pari-mutuel wagering. The Racing Commission shall have a total membership of six members to be appointed as follows: five nonlegislative citizen members with voting privileges appointed by the Governor, subject to confirmation by the General Assembly, and one member of the Virginia Gaming Commission Board appointed by the chair of the Board who shall serve in an advisory role with nonvoting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth.

Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of five years.

The Racing Commission shall elect a chair and vice-chair from among its membership. A majority of the voting members shall constitute a quorum. The meetings of the Racing Commission shall be held at the call of the chair or whenever the majority of the members so request.

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

B. The Racing Commission, or the Executive Secretary acting on its behalf, shall have the power and duty to:

1. Visit, investigate, and have free access to the office, track, facilities, satellite facilities, or other places of business of any licensee or permit holder, and compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of satisfying itself that the provisions of this chapter and its regulations are strictly complied with. The Racing Commission may require any person granted a permit by the Racing Commission and shall require any person licensed by the Racing Commission pursuant to this chapter, the recognized majority horsemen's group, and the recognized industry stakeholder organization to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Racing Commission. The Racing Commission may require the production of any contract to which such person is or may be a party.

2. Promulgate regulations and conditions under which live horse racing and simulcast horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations the Racing Commission deems necessary and appropriate to effect the purposes of this chapter, including a requirement *that licensees post, in a conspicuous location in every place where pari-mutuel wagering is conducted, (i) a sign that bears the toll-free telephone number for the National Problem Gambling Helpline and (ii) a sign that bears the toll-free number and website for the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police pursuant to § 52-54 for members of the public to report concerns about, or suspected instances of, illegal gaming activities. To the extent permitted by law, such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Racing Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The promulgation of such regulations shall be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*

3. Promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Racing Commission shall have the authority to alter the required number of live racing days in the event of force majeure. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Racing Commission that is a significant infrastructure limited licensee. In no event shall the Racing Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 4, wagering on simulcast horse racing shall take place only at a licensed racetrack or satellite facility.

4. Promulgate regulations controlling advance deposit account wagering. Such regulations shall include (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth, except that the Racing Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 1 and 7; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its political subdivisions, or at any public elementary or secondary school or institution of higher education. The Racing Commission also shall ensure that, except for advance deposit account wagering, all wagering on simulcast horse racing shall take place only at a licensed racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Racing Commission's authority as set forth elsewhere in this section.

5. Compel any person holding a license or permit issued by the Racing Commission to file with the Racing Commission such data as shall appear to the Racing Commission to be necessary for the performance of its duties including all financial statements and information relative to stockholders and all others with pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

6. Report annually on or before March 1 to the Gaming Commission, which report shall include a financial statement of the operation of the Racing Commission.

7. Order such audits, in addition to those required by § 29.5-610, as it deems necessary and desirable.

8. Report immediately, upon the receipt of a complaint of an alleged criminal violation of this chapter, such complaint to the associate general counsel hired by the Commissioner to represent the interests of the Racing Commission, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action.

9. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the threshold for such withholdings.

10. Promulgate regulations defining and designating those drugs the use of which is prohibited or restricted.

11. Subject, within the enclosure, stable, or other facility related to the conduct of horse racing, and during regular or usual business hours, any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Racing Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document, or record indicative of a violation of any provision of this chapter or Racing Commission regulations may be seized as evidence of such violation. All permit holders shall consent to the searches and seizures authorized by this subdivision, including breath, blood, and urine sampling for alcohol and illegal drugs. The Racing Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules and regulations of the Racing Commission.

12. Require the existence of a contract between each licensee and the recognized horsemen's group for such licensee. Such contract shall be subject to the approval of the Racing Commission, which shall have the power to approve or disapprove any of its items, including the provisions regarding purses and prizes. Such contracts shall provide that on pools generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first $75 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of five percent in the horsemen's purse account; (ii) for any amount in excess of $75 million but less than $150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum rate of six percent in the horsemen's purse account; and (iii) for amounts in excess of $150 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed that generated the pools and such deposits shall be made within five days from the date on which the licensee receives wagers. In the absence of the required contract between the licensee and the recognized majority horsemen's group, the Racing Commission may permit wagering to proceed on simulcast horse racing from outside of the Commonwealth, provided that the licensee deposits into the Horse Racing Operations Fund, created pursuant to § 29.5-606, an amount equal to the minimum percentage of the total pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Racing Commission may approve. The deposits shall be made within five days from the date on which the licensee receives wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed and approved by the Racing Commission, the Racing Commission shall transfer the funds to the licensee and the horsemen's purse accounts.

13. Grant to an applicant, notwithstanding the provisions of § 29.5-634, provisional limited licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities prior to the applicant securing the approval through the local referendum required by § 29.5-634. The provisional licenses issued by the Racing Commission shall only become effective upon the approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to § 29.5-634 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

14. Keep a complete and accurate record of its proceedings. A copy of such record and any other public records not exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) shall be available for public inspection and copying during regular office hours at the Racing Commission.

15. Promote the growth of the equine industry by implementing strategic initiatives aimed at enhancing industry visibility and economic viability. The Racing Commission shall also focus on sustaining the industry through support programs for existing stakeholders and infrastructure development. Further, the Racing Commission shall encourage participation by local individuals and businesses in activities associated with horse racing.

§ 29.5-603. Financial interests of Racing Commission members and family members prohibited.

No member of the Racing Commission, and no spouse or immediate family member of any such member shall have any financial interest, direct or indirect, in (i) any horse racetrack, satellite facility, or operation incident thereto subject to the provisions of this chapter; (ii) any entity that has submitted an application for a license pursuant to this chapter; (iii) the operation of any such racetrack or satellite facility within the Commonwealth; or (iv) the operation of any wagering authorized under this chapter. No member of the Racing Commission and no spouse or immediate family member of any such member shall (a) participate as owner of a horse or otherwise as a contestant in any horse race subject to the jurisdiction of the Racing Commission; (b) have any pecuniary interest in the purse or prize contested for in any such horse race; or (c) make any contribution to a candidate for office or office holders on the local or state level, or cause a contribution to be made on their behalf.

§ 29.5-604. Powers and duties of the Gaming Commission; historical horse racing.

The Virginia Gaming Commission and the Board shall have all powers and duties necessary to carry out the provisions of this chapter related to the administration and regulation of historical horse racing.

Such powers and duties shall include:

1. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, racetrack, facilities, satellite facilities, or other places of business of any historical horse racing licensee, and may compel the production of any of the books, documents, records, or memoranda of any licensee for the purpose of satisfying itself that this chapter and its regulations are strictly complied with.

2. The Board shall promulgate regulations and conditions under which historical horse racing shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, (i) a sign that bears the toll-free telephone number for the

National Problem Gambling Helpline and (ii) a sign that bears the toll-free number and website for the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police pursuant to § 52-54 for members of the public to report concerns about, or suspected instances of, illegal gaming activities. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The promulgation of such regulations shall be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

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

4. The Board may compel any person holding a historical horse racing license to file with the Commission such data as shall appear to the Board to be necessary for the performance of its duties including financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

5. The Commission shall report annually on or before October 1 to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission with respect to historical horse racing and the information reported to the Commission by the Racing Commission pursuant to subdivision B 6 of § 29.5-602.

6. The Commission may order such audits, in addition to those required by § 29.5-610, as it deems necessary and desirable.

7. The Commission, shall upon the receipt of a complaint of an alleged criminal violation of this chapter, immediately report the complaint to the Commission's general or special counsel hired by the Commissioner pursuant to § 29.5-102, the Office of the Gaming Enforcement Coordinator at the Department of State Police pursuant to § 52-54, and the attorney for the Commonwealth in the jurisdiction where such alleged violation occurred for appropriate action.

8. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.

9. The Board, in consultation and with the advice and consent of the Racing Commission, shall promulgate regulations requiring, for each calendar year, any significant infrastructure limited licensee that offers pari-mutuel wagering on historical horse racing to hold at least one live Thoroughbred horse racing day, consisting of not less than eight races per day, for every 100 historical horse racing terminals installed at its significant infrastructure facility together with any satellite facility owned, operated, controlled, managed, or otherwise directly or indirectly affiliated with such licensee. The regulations shall require any such significant infrastructure limited licensee that holds more than one live Thoroughbred horse racing day in accordance with the provisions of this subdivision to hold at least one of those racing days on a weekend. The number of historical horse racing terminals installed at a significant infrastructure facility shall be calculated as of December 31 of the calendar year in question; however, only historical horse racing terminals that are fully operational shall be included in such calculation.

§ 29.5-605. Executive Secretary; duties; staff and stewards.

A. The Commissioner of the Gaming Commission shall employ an Executive Secretary of the Racing Commission to supervise and oversee the conduct of the Virginia Racing Commission. The Executive Secretary, in addition to any other duties prescribed by the Commissioner, shall keep a true and full record of all proceedings of the Racing Commission and preserve all books, documents, and papers of the Racing Commission. Neither the Executive Secretary nor the spouse or any member of the immediate family of the Executive Secretary shall make any contributions to a candidate for office or office holder at the local or state level, or cause such a contribution to be made on his behalf.

B. The Executive Secretary shall have the power and duty to:

1. Employ such persons to be present at race meetings as are necessary to ensure that such meetings are conducted with order and the highest degree of integrity and to allow the Racing Commission to eject or exclude from the enclosure or from any part of such enclosure any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Racing Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

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

3. Enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of live or simulcast horse racing.

C. The Commissioner of the Gaming Commission and the Executive Secretary of the Racing Commission *shall employ such persons as they deem essential to perform the relevant duties pursuant to this chapter, each of whom shall possess such authority and perform such functions as the Commissioner or Executive Secretary shall prescribe or delegate to them. Such employees may include stewards, chemists, veterinarians, inspectors, accountants, guards, and such other employees deemed to be necessary for the supervision and the proper conduct of the highest standard of live, historical, and simulcast horse racing. Such employees shall be compensated as provided by the Gaming Commission.*

D. The stewards employed by the Executive Secretary shall act as racing officials to oversee the conduct of (i) horse racing at licensed racetracks and (ii) simulcast horse racing at satellite facilities. The stewards shall have the authority to interpret and enforce the Racing Commission's regulations and to decide all questions of live horse racing and simulcast horse racing not specifically covered by the regulations of the Racing Commission. Nothing in this subsection shall limit the authority of the Commissioner to carry out the provisions of this chapter and to exercise control of horse racing as set forth in this chapter, including the power to review all decisions and rulings of the stewards.

§ 29.5-606. Horse Racing Operations Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Horse Racing Operations Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys and revenues received by the Virginia Gaming Commission or the Virginia Racing Commission pursuant to the provisions of this chapter and all funds appropriated for the operations of the Racing Commission 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 for paying (i) administrative and operational expenses of the Racing Commission; (ii) costs associated with participation in federally mandated programs, including the Horseracing Integrity and Safety Authority and the Horseracing Integrity and Welfare Unit; and (iii) costs association with the promotion, sustenance, and growth of the equine industry in the Commonwealth. 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 Executive Secretary.

§ 29.5-607. Fingerprints and background investigations; investigations from other states.

A. The Commission, in conjunction with an accredited law-enforcement agency, shall conduct a background investigation, including a criminal history records check and fingerprinting of the following persons: (i) every person licensed to hold race meetings within the Commonwealth; (ii) every person who is an officer, director, or principal stockholder of a corporation that holds such a license, and every employee of the holder of any such license whose duties relate to the horse racing business in the Commonwealth, including historical horse racing; (iii) all security personnel of any license holder; (iv) members of the Virginia Racing Commission; (v) all permit holders, including owners, trainers, jockeys, apprentices, stable employees, managers, agents, blacksmiths, veterinarians, and employees of any licensee or permit holder; and (vi) any person who actively participates in the horse racing activities of any licensee or permit holder. Each such person shall submit his fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for a national criminal records search and to the Department of State Police for a Virginia criminal history records check. The results of the background check and national and state criminal records check shall be returned to the Commission.

§ 29.5-608. Hearing and appeal.

Any person aggrieved by (i) a refusal of the Commissioner or the Racing Commission to issue any license or e-permit, (ii) the suspension or revocation of a license or e-permit, (iii) the imposition of a fine, or (iv) any other action of the Gaming Commission, Board, or Racing Commission pursuant to this chapter, 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, and any further appeals shall also be in accordance with such article.

§ 29.5-609. Injunction.

Whenever it appears to the Gaming Commission or Racing Commission, as applicable, that any person has violated or may violate any provision of this chapter, any Board or Racing Commission regulation, or final decision of the Gaming Commission or Racing Commission, such Commission may apply to the appropriate circuit court for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

§ 29.5-610. Audit required.

A regular post-audit shall be conducted of all accounts and transactions of the Gaming Commission and the Racing Commission conducted pursuant to this chapter. An audit of a fiscal and compliance nature of such accounts and transactions of the Gaming Commission and the Racing Commission shall be conducted by the Auditor of Public Accounts as determined necessary by him. The cost of the audit and post-audit examinations shall be paid by the Gaming Commission or the Racing Commission, as applicable.

§ 29.5-611. Virginia Breeders Fund.

There is hereby created within the State Treasury the Virginia Breeders Fund, referred to in this section *as "the Fund," which Fund, together with the interest thereon, shall be administered in whole or in part by the Commission or by an entity designated by the Commission, with the advice of, in consultation with, and with the consent of the Racing Commission. The cost of administering and promoting the Fund shall be deducted from the Fund, and the balance shall be disbursed by the Commission or designated entity to the breeders of Virginia-bred horses that finish first, second, or third in races at race meetings designated by the Racing Commission, to the owners of Virginia sires of Virginia-bred horses that finish first, second, or third in races at race meetings designated by the Racing Commission, to the owners of Virginia-bred horses that win or earn purse money in nonrestricted races at racetracks in the Commonwealth licensed by the Racing Commission, to the owners of Virginia-bred horses that win races at race meetings designated by the Racing Commission, and for purses for races restricted to Virginia-bred or Virginia-sired horses or both at race meetings designated by the Racing Commission. To assist the Commission in establishing this awards and incentive program to foster the industry of breeding racehorses in the Commonwealth, the Board shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the Fund program, one member representing the owners and operators of racetracks, and one member representing all of the meets sanctioned by the National Steeplechase Association.*

Article 2.

Live Horseracing Compact.

§ 29.5-612. Live Horseracing Compact; form of compact.

The Live Horseracing Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Purposes.

§ 1. Purposes.

The purposes of this compact are to:

1. Establish uniform requirements among the party states for the licensing of participants in live horse racing with pari-mutuel wagering, and ensure that all such participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.

2. Facilitate the growth of the horse racing industry in each party state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live horse racing with pari-mutuel wagering.

3. Authorize the Virginia Gaming Commission to participate in this compact.

4. Provide for participation in this compact by officials of the party states, and permit those officials, through the compact committee established by this compact, to enter into contracts with governmental agencies and nongovernmental persons to carry out the purposes of this compact.

5. Establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from the Federal Bureau of Investigation and other state and local law-enforcement agencies.

ARTICLE II. Definitions.

§ 2. Definitions.

"Compact committee" means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact.

"Official" means the appointed, elected, designated, or otherwise duly selected representative of a racing commission or the equivalent thereof in a party state who represents that party state as a member of the compact committee.

"Participants in live racing" means participants in live horse racing with pari-mutuel wagering in the party states.

"Party state" means each state that has enacted this compact.

"State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

ARTICLE III. Entry into Force, Eligible Parties, and Withdrawal.

§ 3. Entry into force.

This compact shall come into force when enacted by any four states. Thereafter, this compact shall become effective as to any other state upon (i) that state's enactment of this compact and (ii) the affirmative vote of a majority of the officials on the compact committee as provided in § 8.

§ 4. States eligible to join compact.

Any state that has adopted or authorized horse racing with pari-mutuel wagering shall be eligible to become party to this compact.

§ 5. Withdrawal from compact and impact thereof on force and effect of compact.

Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing of such withdrawal to the head of the executive branch of all other party states. If as a result of withdrawals participation in this compact decreases to less than three party states, this compact no longer *shall be in force and effect unless and until there are at least three or more party states again participating in this compact.*

ARTICLE IV. Compact Committee.

§ 6. Compact committee established.

There is hereby created an interstate governmental entity to be known as the "compact committee," which shall be composed of one official from the racing commission or its equivalent in each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the party state he represents. Pursuant to the laws of his party state, each official shall have the assistance of his state's racing commission or the equivalent thereof in considering issues related to licensing of participants in live racing and in fulfilling his responsibilities as the representative from his state to the compact committee. If an official is unable to perform any duty in connection with the powers and duties of the compact committee, the racing commission or equivalent thereof from his state shall designate an alternate who shall serve in his place and represent the party state as its official on the compact committee until that racing commission or equivalent thereof determines that the original representative official is able once again to perform his duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the affected state's racing commission or equivalent thereof to the compact committee as the committee's bylaws may provide.

§ 7. Powers and duties of compact committee.

In order to carry out the purposes of this compact, the compact committee is hereby granted the power and duty to:

1. Determine which categories of participants in live racing, including but not limited to owners, trainers, jockeys, grooms, mutuel clerks, racing officials, veterinarians, and farriers, and which categories of equivalent participants in live racing with pari-mutuel wagering authorized in two or more of the party states, should be licensed by the committee, and establish the requirements for the initial licensure of applicants in each such category, the term of the license for each category, and the requirements for renewal of licenses in each category, provided, however, that with regard to requests for criminal records on the issuance or renewal of a license, the compact committee shall determine for each category of participants in live racing which licensure requirements for that category are, in its judgment, the most restrictive licensure requirements of any party state for that category and shall adopt licensure requirements for that category that are, in its judgment, comparable to those most restrictive requirements.

2. Investigate applicants for a license from the compact committee and, as permitted by federal and state law, gather information on such applicants, including criminal history record information from the Federal Bureau of Investigation and relevant state and local law-enforcement agencies, and, where appropriate, from the Royal Canadian Mounted Police and law-enforcement agencies of other countries, necessary to determine whether a license should be issued under the licensure requirements established by the committee as provided in subdivision 1. Only officials on, and employees of, the compact committee may receive and review such criminal history record information, and those officials and employees may use that information only for the purposes of this compact. No such official or employee may disclose or disseminate such information to any person or entity other than another official or employee of the compact committee. The fingerprints of each applicant for a license from the compact committee shall be taken by the compact committee, its employees, or its designee and, pursuant to Public Law 92-544 or Public Law 100-413, shall be forwarded to a state identification bureau, or an association of state officials regulating pari-mutuel wagering designated by the Attorney General of the United States, for submission to the Federal Bureau of Investigation for a criminal history records check. Such fingerprints may be submitted on a fingerprint card or by electronic or other means authorized by the Federal Bureau of Investigation or other receiving law-enforcement agency.

3. Issue licenses to, and renew the licenses of, participants in live racing listed in subdivision 1 who are found by the committee to have met the licensure and renewal requirements established by the committee. The compact committee shall not have the power or authority to deny a license. If it determines that an applicant will not be eligible for the issuance or renewal of a compact committee license, the compact committee shall notify the applicant that it will not be able to process his application further. Such notification does not constitute and shall not be considered to be the denial of a license. Any such applicant shall have the right to present additional evidence to, and to be heard by, the compact committee, but the final decision on issuance or renewal of the license shall be made by the compact committee using the requirements established pursuant to subdivision 1.

4. Enter into contracts or agreements with governmental agencies and with nongovernmental persons to provide personal services for its activities and such other services as may be necessary to effectuate the purposes of this compact.

5. Create, appoint, and abolish those offices, employments, and positions, including an executive director, as it deems necessary for the purposes of this compact, prescribe their powers, duties, and qualifications, hire persons to fill those offices, employments, and positions, and provide for the removal, term, tenure, compensation, fringe benefits, retirement benefits, and other conditions of employment of its officers,

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employees, and other positions.

6. Borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, corporation, or other entity.

7. Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or in other similar manner, in furtherance of the purposes of this compact.

8. Charge a fee to each applicant for an initial license or renewal of a license.

9. Receive other funds through gifts, grants, and appropriations.

§ 8. Voting requirements.

A. Each official shall be entitled to one vote on the compact committee.

B. All action taken by the compact committee with regard to the addition of party states as provided in § 3, the licensure of participants in live racing, and the receipt and disbursement of funds shall require a majority vote of the total number of officials, or their alternates, on the committee. All other action by the compact committee shall require a majority vote of those officials, or their alternates, present and voting.

C. No action of the compact committee may be taken unless a quorum is present. A majority of the officials, or their alternates, on the compact committee shall constitute a quorum.

§ 9. Administration and management.

A. The compact committee shall elect annually from among its members a chairman, a vice-chairman, and a secretary/treasurer.

B. The compact committee shall adopt bylaws for the conduct of its business by a two-thirds vote of the total number of officials¸ or their alternates, on the committee at that time and shall have the power by the same vote to amend and rescind such bylaws. The committee shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendments thereto with the secretary of state or equivalent agency of each of the party states.

C. The compact committee may delegate the day-to-day management and administration of its duties and responsibilities to an executive director and his support staff.

D. Employees of the compact committee shall be considered governmental employees.

§ 10. Immunity from liability for performance of official responsibilities and duties.

No official of a party state or employee of the compact committee shall be held personally liable for any good faith act or omission that occurs during the performance and within the scope of his responsibilities and duties under this compact.

ARTICLE V. Rights and Responsibilities of Each Party State.

§ 11. Rights and responsibilities of each party state.

A. By enacting this compact, each party state:

1. Agrees (i) to accept the decisions of the compact committee regarding the issuance of compact committee licenses to participants in live racing pursuant to the committee's licensure requirements and (ii) to reimburse or otherwise pay the expenses of its official representative on the compact committee or his alternate.

2. Agrees not to treat a notification to an applicant by the compact committee under subdivision 3 of § 7 that the compact committee will not be able to process his application further as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.

3. Reserves the right (i) to charge a fee for the use of a compact committee license in that state; (ii) to apply its own standards in determining whether, on the facts of a particular case, a compact committee license should be suspended or revoked; (iii) to apply its own standards in determining licensure eligibility, under the laws of that party state, for categories of participants in live racing that the compact committee determines not to license and for individual participants in live racing who do not meet the licensure requirements of the compact committee; and (iv) to establish its own licensure standards for the licensure of nonracing employees at horse racetracks and employees at separate satellite wagering facilities. Any party state that suspends or revokes a compact committee license shall, through its racing commission or the equivalent thereof or otherwise, promptly notify the compact committee of that suspension or revocation.

B. No party state shall be held liable for the debts or other financial obligations incurred by the compact committee.

ARTICLE VI. Construction and Severability.

§ 12. Construction and severability.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any party state, or the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If all or some portion of this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§ 29.5-613. Compact Committee members.

The Governor shall appoint one official to represent the Commonwealth on the Compact Committee for a term of four years. No official shall serve more than three consecutive terms. A vacancy shall be filled by the Governor for the unexpired term.

§ 29.5-614. Cooperation of departments, agencies, and officers of the Commonwealth.

All departments, agencies, and officers of the Commonwealth and its political subdivisions are hereby authorized to cooperate with the Compact Committee in furtherance of any of its activities pursuant to the Compact.

Article 3.
Licenses and Permits.

§ 29.5-615. License required.

A. No person shall (i) construct, establish, or own a racetrack or satellite facility where pari-mutuel wagering is permitted unless he has obtained an owner's license issued by the Racing Commission in accordance with the provisions of this chapter or (ii) operate historical horse racing at a racetrack or satellite facility, unless he has obtained a historical horse racing license issued by the Commissioner in accordance with the provisions of this chapter.

B. No person shall operate (i) pari-mutuel wagering on live horse racing or conduct any race meeting at which wagering is permitted with his knowledge or acquiescence unless he has obtained an operator's license issued by the Racing Commission in accordance with the provisions of this chapter, or (ii) historical horse racing unless he has obtained a historical horse racing license issued by the Commission in accordance with the provisions of this chapter.

C. No license issued under the provisions of this chapter shall be transferable.

§ 29.5-616. Limited licenses; transfer of meet; taxation; authority to issue; limitations.

A. Notwithstanding the provisions of § 29.5-615 or 29.5-618, but subject to such regulations and criteria as it may prescribe, the Racing Commission is authorized to issue limited licenses, provided such licenses shall permit any holder to conduct a race meeting or meetings for a period not to exceed 14 days in any calendar year, or in the case of a significant infrastructure limited licensee, 75 days in any calendar year.

B. The Racing Commission may at any time, in its discretion, authorize any organization or association licensed under this section to transfer its race meeting or meetings from its own racetrack or place for holding races to the racetrack or place for holding races of any other organization or association licensed under this chapter upon the payment of any and all appropriate license fees. No such authority to transfer shall be granted without the express consent of the organization or association owning or leasing the racetrack to which such transfer is made.

C. For any such meeting the licensee shall retain and pay from the pool the tax as provided in Article 5 (§ 29.5-635 et seq.).

D. On and after July 1, 2026, in addition to all other taxes and fees imposed by law, there is hereby levied a significant infrastructure facility limited license tax upon any significant infrastructure limited licensee. Any such licensee shall pay to the locality in which a significant infrastructure facility for such licensee is located $110,000 for each live racing day at such facility.

§ 29.5-617. Application for owner's license; penalty.

A. Any person desiring to construct or own a racetrack or satellite facility where pari-mutuel wagering is permitted shall file with the Racing Commission an application for an owner's license. Such application shall be filed at the time and place, and in such form and containing such information, as prescribed by the Racing Commission with the following:

1. The name and address of such person; if a corporation, the state of its incorporation, and the full name and address of each officer and director thereof, and if a foreign corporation, whether it is qualified to do business in the Commonwealth; if a partnership or joint venture, the name and address of each officer thereof;

2. The name and address of each stockholder or member of such corporation, or each partner of such partnership or joint venture, and of each person who has contracted for a pecuniary interest in the applicant where pari-mutuel wagering will be conducted, whether such interest is an ownership or a security interest, and the nature and value of such interest, and the name and address of each person who has agreed to lend money to the applicant;

3. Such information as the Racing Commission deems appropriate regarding the character, background, and responsibility of the applicant and the members, partners, stockholders, officers, and directors of the applicant;

4. The location and description of the racetrack, place, or enclosure where such person proposes to hold such wagering, including the name of any locality in which any property of such satellite facility is or will be located. The Racing Commission shall require such information about the enclosure and location of such racetrack or satellite facility as it deems necessary and appropriate to determine whether it complies with the minimum standards provided in this chapter, and whether the conduct of pari-mutuel wagering at such location would be in the best interests of the people of the Commonwealth;

5. Such information relating to the financial responsibility of the applicant as the Racing Commission

deems appropriate;

6. If any of the facilities necessary for the conduct of pari-mutuel wagering are to be leased, the terms of such lease; and

7. Any other information that the Racing Commission, in its discretion, deems appropriate.

B. Any application filed hereunder shall be verified by the oath or affirmation of an officer of the applicant and accompanied by a nonrefundable application fee as prescribed by the Racing Commission. Each such application shall be provided by the Racing Commission to the Gaming Commission. The Gaming Commission, on behalf of the Racing Commission, shall conduct a background investigation, including a criminal history record information check, of such applicant and advise the Racing Commission of its findings. The Racing Commission shall review each application and determine the suitability of each such applicant on all other matters, including the applicant's racetrack or satellite facility where pari-mutuel wagering is subject to be permitted. If the Gaming Commission makes a final adverse determination with respect to any applicant, the Racing Commission shall not issue an owner's license to such applicant.

C. Any person who knowingly makes a false statement to the Racing Commission for the purposes of obtaining a license under this chapter is guilty of a Class 4 felony.

§ 29.5-618. Issuance of owner's license.

A. The Racing Commission shall consider all applications for an owner's license and may grant a valid owner's license to applicants who (i) satisfy the background investigation, including a criminal history record information check, and (ii) meet the criteria set forth in this chapter and established by the Racing Commission. The Racing Commission shall deny a license to any applicant unless it finds that the applicant's facilities are or will be appropriate for the finest quality of horse racing.

B. The Racing Commission shall deny a license to an applicant if it finds that (i) for any reason, the issuance of a license to the applicant would not be in the interest of the people of the Commonwealth or would reflect adversely on the honesty and integrity of the horse racing industry in the Commonwealth or (ii) that the applicant, or any officer, partner, principal stockholder, or director of the applicant:

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

2. Is or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any horse racing in this or any other state, or has been convicted of a felony;

3. Has at any time knowingly failed to comply with the provisions of this chapter or of any regulations of the Racing Commission;

4. Has had a license or permit to hold or conduct a horse race meeting denied for just cause, suspended, or revoked in any other state or country;

5. Has legally defaulted in the payment of any obligation or debt due to the Commonwealth;

6. Has constructed or caused to be constructed a racetrack or satellite facility for which a license was required under § 29.5-617 without obtaining such license, or has deviated substantially, without the permission of the Racing Commission, from the plans and specifications submitted to the Racing Commission; or

7. Is not qualified to do business in the Commonwealth or is not subject to the jurisdiction of the courts of the Commonwealth.

C. The Racing Commission shall deny a license to any applicant unless it finds:

1. That, if the corporation is a stock corporation, that such stock is fully paid and nonassessable, has been subscribed and paid for only in cash or property to the exclusion of past services, and, if the corporation is a nonstock corporation, that there are at least 20 members;

2. That all principal stockholders or members have submitted to the jurisdiction of the courts of the Commonwealth, and all nonresident principal stockholders or members have designated the Executive Secretary as their agent for receipt of process;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder or require the resignation of any member who is or becomes unqualified for such position under § 29.5-619; and

4. That the applicant meets the criteria established by the Racing Commission for the granting of an owner's license.

§ 29.5-619. Refusal of owner's license.

No owner's license or renewal thereof shall be granted to any corporation if the Racing Commission finds that any principal stockholder of such stock corporation, or any member of such nonstock corporation:

1. Is or has been guilty of any illegal, corrupt, or fraudulent act, conduct, or practice in connection with horse racing in the Commonwealth or any other state, or has knowingly failed to comply with the provisions of this chapter or Racing Commission regulations;

2. Has had a license or permit to hold or conduct a race meeting denied for cause, suspended, or revoked in any other state or country; or

3. Has at any time during the previous five years knowingly failed to comply with the provisions of this *chapter or any Racing Commission regulations.*

§ 29.5-620. Duration, form of owner's license; bond.

Any license issued pursuant to § 29.5-618 shall be valid for a period set by the Racing Commission, but in no case less than 20 years from its date of issuance. Such license shall be reviewed no less frequently than annually to determine compliance with this chapter and Racing Commission regulations. The Racing Commission shall designate on the license the duration of such license, the location of the racetrack, satellite facility, or proposed satellite facility and such other information as it deems proper. The Racing Commission shall establish criteria and procedures for licensure renewal.

The Racing Commission shall require (i) a bond with surety or (ii) a letter of credit, acceptable to the Racing Commission, and in an amount determined by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

§ 29.5-621. Application for operator's license.

A. Any person desiring to hold a race meeting or operate a satellite facility shall file with the Racing Commission an application for an operator's license. Such application may be made in conjunction with an application for an owner's license, if appropriate, and shall be filed at the time and place, and in such form and containing such information, as prescribed by the Racing Commission, including all information prescribed for an owner's license under § 29.5-617.

B. Any application filed pursuant to this section shall be verified by the oath or affirmation of an officer of the applicant and accompanied by a nonrefundable application fee as prescribed by the Racing Commission. Each such application shall be provided by the Racing Commission to the Gaming Commission. The Gaming Commission, on behalf of the Racing Commission, shall conduct a background investigation, including a criminal history record information check, of such applicant and advise the Racing Commission of its findings. The Racing Commission shall review each application and determine the suitability of each such applicant on all other matters, including the applicant's racetrack or satellite facility where pari-mutuel wagering is subject to be permitted. If the Gaming Commission makes a final adverse determination with respect to any applicant, the Racing Commission shall not issue an operator's license to such applicant.

§ 29.5-622. Issuance of operator's license.

The Racing Commission shall promptly consider any application for an operator's license and grant a valid operator's license to any applicant who (i) satisfies the background investigation, including a background investigation, conducted by the Gaming Commission, and (ii) meets the criteria set forth in this chapter and established by the Racing Commission. The Racing Commission shall deny a license to any applicant, unless it finds:

1. That such applicant is a corporation organized under Title 13.1 or comparable law of another state, and qualified to do business in the Commonwealth;

2. That, if the corporation is a stock corporation, all principal stockholders have submitted to the jurisdiction of the courts of the Commonwealth and all nonresident principal stockholders have designated the Executive Secretary as their agent for process, and further, that an application shall also contain information as required by § 29.5-617;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder, or require the resignation of any member, who is or becomes unqualified for such position under § 29.5-619;

4. That the applicant would be qualified for a license to own such racetrack or satellite facility under the provisions of §§ 29.5-618 and 29.5-619;

5. That the applicant has made provisions satisfactory to the Racing Commission for the detection and prosecution of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any race meeting or pari-mutuel wagering, that the applicant has made provision for membership in the Thoroughbred Racing Association or other equivalent applicable association, and that the applicant shall utilize the services of the Thoroughbred Racing Protective Bureau or any other protective agency acceptable to the Racing Commission; and

6. That the applicant has met the criteria established by the Racing Commission for the granting of an operator's license.

§ 29.5-623. Duration, form of operator's license; bond.

Any license issued pursuant to § 29.5-622 shall be valid for a period of 20 years from the date of issuance, but shall be reviewed no less frequently than annually to determine compliance with this chapter and Racing Commission regulations. The Racing Commission may, as it deems appropriate, change at the beginning of any year the dates on which the licensee is authorized to conduct pari-mutuel wagering. An applicant for renewal of a license may omit any information that in the opinion of the Racing Commission is already available to it. The Racing Commission shall establish criteria and procedures for license renewal.

Any license issued under § 29.5-622 shall designate on its face (i) the type or types of pari-mutuel wagering for which it is issued, (ii) the location of the racetrack or satellite facility where the meeting or wagering is to be conducted, (iii) the period during which such license is in effect, and (iv) such other *information as the Racing Commission deems proper.*

The Racing Commission shall require a bond with surety acceptable to it, and in an amount determined by it to be sufficient to cover any indebtedness incurred by such licensee during the days allotted for racing.

§ 29.5-624. Licensing of owners or operators of certain pari-mutuel facilities.

A. Notwithstanding the provisions of § 29.5-634, the Racing Commission may grant a license, for a duration to be determined by the Racing Commission, to the owner or operator of a facility for the purpose of conducting pari-mutuel wagering on (i) Thoroughbred and Standardbred race meetings and (ii) simulcast horse racing at such facility in conjunction with the race meetings for a period not to exceed 14 days in any calendar year, provided that, prior to submitting an application for such license, (a) the facility has been approved by the Racing Commission and (b) the owner or operator of such facility has been granted tax-exempt status under § 501(c)(3) or (4) of the Internal Revenue Code.

B. In deciding whether to grant any license pursuant to this section, the Racing Commission shall consider (i) the results of, circumstances surrounding, and any issues involved in any referendum conducted under the provisions of § 29.5-634 and (ii) whether the Racing Commission previously granted a license to such facility, owner, or operator.

C. In no event shall the Racing Commission issue more than 12 licenses in a calendar year pursuant to this section.

§ 29.5-625. Application for historical horse racing license.

A. Any person desiring to conduct historical horse racing at a racetrack or a satellite facility shall file with the Commission an application for a historical horse racing license. Such application shall be filed at the time and place, and in such form and containing such information, as prescribed by the Board.

B. Any application filed pursuant to this section shall be verified by the oath or affirmation of an officer of the applicant and accompanied by a nonrefundable application fee as prescribed by the Board.

§ 29.5-626. Issuance of historical horse racing license.

The Commissioner shall promptly consider any application for a historical horse racing license and grant a valid historical horse racing license to an applicant who meets the criteria set forth in this chapter and established by the Board. The Commissioner shall deny a license to any applicant, unless he finds:

1. That such applicant is a corporation organized under Title 13.1 or comparable law of another state, and qualified to do business in the Commonwealth;

2. That, if the corporation is a stock corporation, all principal stockholders have submitted to the jurisdiction of the courts of the Commonwealth and all nonresident principal stockholders have designated the Deputy Commissioner of Gaming as their agent for process, and further, that an application also contains information as required by § 29.5-617;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder, or require the resignation of any member, who is or becomes unqualified for such position under § 29.5-619;

4. That the applicant would be qualified for a license to own such horse racetrack or satellite facility under the provisions of §§ 29.5-618 and 29.5-619;

5. That the applicant has made provisions satisfactory to the Board for the detection and prosecution of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any race meeting or pari-mutuel wagering, that the applicant has made provision for membership in the Thoroughbred Racing Association or other equivalent applicable association, and that the applicant shall utilize the services of the Thoroughbred Racing Protective Bureau or any other protective agency acceptable to the Racing Commission; and

6. That the applicant has met the criteria established by the Board for the granting of a historical horse racing license.

§ 29.5-627. Denial of owner's, operator's, or historical horse racing license final.

The denial of (i) an owner's or operator's license by the Racing Commission or (ii) a historical horse racing license by the Commissioner shall be final unless appealed under § 29.5-608.

§ 29.5-628. Suspension or revocation of license or permit final.

A. After a hearing with 15 days' notice, the Commissioner or the Racing Commission, as applicable, may (i) suspend or revoke any issued license or permit or (ii) fine the holder of such license or permit a sum not to exceed $100,000 in any case where there is reason to believe that any provision of this chapter, or any regulation or condition of the Board or the Racing Commission, has not been complied with or has been violated. The Commissioner or the Racing Commission may revoke a license or permit if facts not known at the time the application was considered indicate that such license or permit should not have been issued.

B. The Commissioner or the Racing Commission, as applicable, shall revoke any license or permit issued under § 29.5-622 for the operation of a satellite facility if the licensee, within one year of issuance of the satellite facility license, fails to conduct (i) live horse racing at a racetrack licensed pursuant to § 29.5-622 or (ii) the live racing days assigned to the licensee by the Racing Commission without the permission of the Racing Commission.

C. The Commissioner or the Racing Commission may summarily suspend any license or permit for a period of not more than 90 days pending a hearing and final determination by the Board or the Racing Commission, as applicable, if emergency action is required to protect the public health, safety, and welfare including revenues due the Commonwealth, its localities, or the horsemen's purse account. The Board or Racing Commission, as applicable, shall (i) schedule a hearing within 14 business days after the license or permit is summarily suspended and (ii) notify the licensee or permit holder not less than five business days before the hearing of the date, time, and place of the hearing.

D. Deliberations of the Board or the Racing Commission pursuant to this section shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If any such license or permit is suspended or revoked, the Commissioner or Racing Commission shall state the reasons for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with the provisions of § 29.5-608. Suspension or revocation of a license or permit by the Commissioner or the Racing Commission for any violation shall not preclude criminal liability for such violation.

§ 29.5-629. Acquisition of interest in licensee.

A. The Commission or Racing Commission shall require any person desiring to become a partner, member, or principal stockholder of any licensee to apply to the Commission or Racing Commission, as applicable, for such approval and may demand such information of the applicant as it finds necessary. The Commissioner or Racing Commission shall promptly consider such application and shall approve or deny the application within 60 days of receipt. The Commissioner or Racing Commission shall approve an application that meets the criteria set forth in this chapter. The Commissioner or Racing Commission shall deny an application if the acquisition by the applicant would be detrimental to the public interest or to the honesty, integrity, and reputation of horse racing. The Commissioner or Racing Commission shall approve an application to acquire actual control of a licensee only if the applicant meets the criteria set forth in subsection B.

B. If an applicant proposes to acquire actual control of a licensee, such person shall, pursuant to subsection A, submit to the Commission or Racing Commission, as applicable, (i) its proposal for the future operation of any existing or planned satellite facility owned or operated by the licensee, (ii) such additional information as it desires, and (iii) such information as may be required by the Board or the Racing Commission to assure the Commissioner or the Racing Commission that the licensee, under the actual control of such person, will have the experience, expertise, financial responsibility, and commitment to comply with (a) the provisions of this chapter, (b) Board or Racing Commission regulations and orders, (c) the requirements for the continued operation of the licensee pursuant to the terms and conditions in effect on the date of the application of all licenses held by the licensee, (d) any existing contract with a recognized majority horseman's group, and (e) any proposal submitted to the Commission or Racing Commission by such person. The provisions of this subsection shall apply regardless of whether the control acquired is direct or indirect or whether its acquisition is accomplished individually or in concert with others.

C. Any such acquisition of control without prior approval of the Commissioner or the Racing Commission, as applicable, shall be voidable by the Gaming Commission or the Racing Commission, as applicable, and, in such instance, the Commissioner or the Racing Commission may revoke any license issued to such licensee, order compliance with this section, or take such other action as may be appropriate.

§ 29.5-630. Historical horse racing employee permit (HHR e-permit); application.

A. No person shall participate in historical horse racing subject to the jurisdiction of the Commission, including as an employee of a historical horse racing licensee, who serves in a role that influences, manages, operates, or oversees historical horse racing activities or any other position that the Commission deems necessary to ensure the integrity of historical horse racing, unless such person possesses a historical horse racing employee permit (HHR e-permit) from the Commission and complies with the provisions of this chapter and all Board regulations. No HHR e-permit issued under the provisions of this chapter shall be transferable.

B. Any person desiring to obtain a HHR e-permit as required by this chapter shall submit an application on a form, and accompanied by a fee, as prescribed by the Board and verified by oath or affirmation of the applicant.

§ 29.5-631. Live horse racing employee permit (LHR e-permit) required; application; exception.

A. No participant shall engage in any horse racing subject to the jurisdiction of the Racing Commission or in the conduct of a race meeting or pari-mutuel wagering thereon, including as a horse owner, trainer, jockey, exercise rider, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, vendor or employee thereof, track employee, or other position the Executive Secretary or the Racing Commission deems necessary to regulate to ensure the integrity of horse racing in the Commonwealth, unless such person (i) possesses an LHR e-permit from the Racing Commission and (ii) complies with the provisions of this chapter and all Racing Commission regulations. No LHR e-permit issued under the provisions of this chapter shall be transferable.

B. Any person desiring to obtain a live horse racing employee permit (LHR e-permit) as required by this chapter shall submit an application on a form, and accompanied by a fee, as prescribed by the Racing

Commission and verified by oath or affirmation of the applicant.

C. The Racing Commission may waive the e-permit requirement for any person who possesses a valid permit or license to participate in the conduct of horse racing in another racing jurisdiction and participates in horse racing in the Commonwealth on nonconsecutive racing days.

D. Once a horse is entered to run in the Commonwealth, all participants shall come under the jurisdiction of the Racing Commission, the Executive Secretary, and the stewards and shall be subject to regulations of the Racing Commission and sanctions it or the stewards may impose.

§ 29.5-632. Consideration of e-permit applications.

A. The Commissioner or Racing Commission shall promptly consider any application for a HHR e-permit or a LHR e-permit and issue or deny either such e-permit based on the information in the application and all other information provided, including any background investigation deemed appropriate. If an application for an e-permit is approved, the Commissioner or Racing Commission shall issue such e-permit, as applicable, which shall contain such information as the Board or the Racing Commission deems appropriate. Such e-permit shall be valid for one year; however, it shall expire automatically when such permit holder leaves the employment of the licensee or at the end of one year, whichever occurs first. The permit holder shall promptly notify the Commission or the Racing Commission when they leave the employment of the licensee. The Board and the Racing Commission, as applicable, shall establish criteria and procedures for e-permit renewal.

B. The Commissioner or the Racing Commission shall deny an application and refuse to issue an e-permit, which denial shall be final unless an appeal is brought under § 29.5-608, if (i) the issuance of such e-permit would not be in the interests of the people of the Commonwealth or would reflect on the honesty and integrity of the horse racing industry in the Commonwealth, or (ii) the applicant:

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

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

3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the Board or the Racing Commission;

4. Has had a permit to engage in activity related to historical horse racing or live horse racing denied for just cause, suspended, or revoked in any other state, and such denial, suspension, or revocation is still in effect; or

5. Is unqualified to perform the duties required for the e-permit sought.

C. The Commissioner or the Racing Commission shall deny an application and refuse to issue an e-permit if, within the five years immediately preceding the date of an application, the applicant has been convicted of a crime involving the unlawful conduct of wagering, fraudulent use of a credential, unlawful transmission of information, touting, bribery, administration or possession of drugs, or any felony considered by the Commission or Racing Commission to be detrimental to historical horse racing or live horse racing in the Commonwealth, or the Gaming Commission has made an adverse determination with respect to an e-permit applicant's background investigation; the denial shall be final unless an appeal is brought under § 29.5-608. Additionally, the Commissioner or the Racing Commission may deny an application and refuse to issue any e-permit if an applicant has been convicted of any such crime committed prior to the five years immediately preceding the date of his application.

D. The Commissioner or Racing Commission may refuse to issue an e-permit if for any reason granting such permit is not consistent with the provisions of this chapter.

§ 29.5-633. Suspension or revocation of e-permit; fine.

A. The (i) Executive Secretary, acting by and through his stewards or at a Racing Commission meeting at which a quorum is present, or (ii) the Commissioner or the Board, at a Board meeting at which a quorum is present, may (a) suspend or revoke an e-permit issued pursuant to this chapter or fine the holder of such e-permit a sum not to exceed $10,000 or (b) suspend an e-permit issued pursuant to this chapter and fine the holder of such e-permit a sum not to exceed $10,000 after a hearing for which proper notice has been given to the permit holder, in any case where it is determined by a preponderance of the evidence that any provision of this chapter, or any regulation or condition of the Board or Racing Commission, has not been complied with or has been violated. The Commissioner or Racing Commission may revoke such e-permit, after such hearing, if facts not known at the time the application was being considered indicate that such permit should not have been issued. Deliberations of the Board or Racing Commission under this section shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). If any e-permit is suspended or revoked, the Commissioner or Racing Commission shall state the reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is brought in accordance with § 29.5-608. Suspension or revocation of an e-permit by the Commissioner or Racing Commission for any violation shall not preclude criminal liability for such violation.

B. The (i) Executive Secretary, acting by and through his stewards, or at a Racing Commission meeting at which a quorum is present, or (ii) the Commissioner or the Board, at a Board meeting at which a quorum is present, may summarily suspend an e-permit for a period of not more than 90 days pending a hearing and final determination. A hearing shall be scheduled by the Commission or the Racing Commission within 14 business days after such permit is summarily suspended and the permit holder shall be notified not less than five business days before the hearing, of the date, time, and place of the hearing.

Article 4.

Local Referendum.

§ 29.5-634. Local referendum required.

The Racing Commission shall not grant any initial license to construct, establish, operate, or own a racetrack or satellite facility until a referendum approving the question is held in each county, city, or town in which such racetrack or satellite facility is to be located, in the following manner:

1. A petition, signed by five percent of the qualified voters of such county, city, or town shall be filed with the circuit court of such county, city, or town asking that a referendum be held on the question, "Shall pari-mutuel wagering be permitted at a licensed racetrack in (name of such county, city, or town) on live horse racing at, and on simulcast horse racing transmitted from another jurisdiction to, the licensed racetrack on such days as may be approved by the Virginia Racing Commission in accordance with Chapter 6 (§ 29.5-600 et seq.) of Title 29.5 of the Code of Virginia?" In addition, or in the alternative, such petition may ask that a referendum be held on the question, "Shall pari-mutuel wagering be permitted in _______________ (the name of such county, city, or town) at satellite facilities in accordance with Chapter 6 (§ 29.5-600 et seq.) of Title 29.5 of the Code of Virginia?"

2. Following the filing of such petition, the court shall, by order of record entered in accordance with § 24.2-684.1, require the regular election officers of such county, city, or town to cause a special election to be held to take the sense of the qualified voters on the question. Such election shall be on a day designated by order of such court, but shall not be later than the next general election unless such general election is within 60 days of the date of the entry of such order, nor shall it be held on a date designated as a primary election.

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

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

"Shall pari-mutuel wagering be permitted at a licensed racetrack in _______________ on live horse racing at, and on simulcast horse racing transmitted from another jurisdiction to, the licensed racetrack on such days as may be approved by the Virginia Racing Commission in accordance with Chapter 6 (§ 29.5-600 et seq.) of Title 29.5 of the Code of Virginia?

[ ] Yes

[ ] No"

"Shall pari-mutuel wagering be permitted in _______________ at satellite facilities in accordance with Chapter 6 (§ 29.5-600 et seq.) of Title 29.5 of the Code of Virginia?

[ ] Yes

[ ] No"

In the blank shall be inserted the name of the county, city, or town in which such election is held. Any voter desiring to vote "Yes" shall mark a check mark () or a cross mark (x or +) or a line (-) 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 a check mark () or a cross mark (x or +) or a line (-) in the square provided for 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 Commission and to the governing body of such county, city, or town.

No such referendum as described above shall be held more often than every three years in the same county, city, or town.

A subsequent local referendum shall be required if a license has not been granted by the Racing Commission within five years of the court order proclaiming the results of the election. "Town," for purposes of this section, means any town with a population of 5,000 or more.

Article 5.

Taxation; Retainage; Distribution.

§ 29.5-635. Taxation and retainage generally.

A. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 does not include pari-mutuel wagering pools and license taxes authorized by this article.

B. All payments by the licensee to the Commonwealth or any locality shall be made within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia Breeders Fund shall be made to the Commission within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry Board, and the Virginia Thoroughbred Association shall be made by the first day of each quarter of the calendar year. All payments made under this article shall be used in support of the policy of the Commonwealth to sustain and promote the growth of a native industry.

C. If a satellite facility is located in more than one locality, any amount a licensee is required to pay under this article to the locality in which the satellite facility is located shall be prorated in equal shares among those localities.

D. Any contractual agreement between a licensee and other entities concerning the distribution of the remaining portion of the retainage under subsections B through G of § 29.5-637 shall be subject to the approval of the Racing Commission and subsections A and B of § 29.5-638 shall be subject to the approval of the Board.

E. The recognized majority horsemen's group racing at a licensed race meeting may, subject to the approval of the Racing Commission, withdraw for administrative costs associated with serving the interests of the horsemen an amount not to exceed two percent of the amount in the horsemen's account.

F. One-hundred percent of the legitimate breakage from each pari-mutuel pool for historical horse racing shall be distributed to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

G. The Gaming Commission and the Racing Commission shall complete an annual review of all taxation, retainage, and breakage amounts allocated pursuant to this article to ensure that such amounts are being appropriately distributed in a manner that sustains and promotes the growth of the horse racing industry, and shall report its findings to the General Assembly on or before October 1 of each year.

§ 29.5-636. Percentage retained; tax; live horse racing.

A. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid 1.25 percent to be distributed as follows: 1.0 percent to the Commonwealth as a license tax and 0.25 percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection C, provided, however, that if the percentage amount approved by the Racing Commission is other than 18 percent, the amounts provided in subdivisions C 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

B. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid 1.25 percent to be distributed as follows: 0.75 percent to the Commonwealth as a license tax, 0.25 percent to the locality in which the satellite facility is located, and 0.25 percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection C, provided, however, that if the percentage amount approved by the Racing Commission is other than 18 percent, the amounts provided in subdivisions C 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

C. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;

2. Seven and one-half percent and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;

3. One percent to the Virginia Breeders Fund;

4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

5. Five one-hundredths percent to the Virginia Horse Center Foundation;

6. Five one-hundredths percent to the Virginia Horse Industry Board; and

7. The remainder as appropriate under subsection A or B.

D. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid 2.75 percent to be distributed as follows: 2.25 percent to the Commonwealth as a license tax, and 0.5 percent to the locality in *which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection F, provided, however, that if the percentage amount approved by the Racing Commission is other than 22 percent, the amounts provided in subdivisions F 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.*

E. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid 2.75 percent to be distributed as follows: 1.75 percent to the Commonwealth as a license tax, 0.5 percent to the locality in which the satellite facility is located, and 0.5 percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection F, provided, however, that if the percentage amount approved by the Racing Commission is other than 22 percent, the amounts provided in subdivisions F 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

F. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Racing Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;

2. Nine percent and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;

3. One percent to the Virginia Breeders Fund;

4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

5. Five one-hundredths percent to the Virginia Horse Center Foundation;

6. Five one-hundredths percent to the Virginia Horse Industry Board; and

7. The remainder as appropriate under subsection D or E.

§ 29.5-637. Percentage retained; tax; simulcast horse racing.

A. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions outside the Commonwealth, the licensee may, with the approval of the Racing Commission, commingle pools with the racetrack where the transmission emanates or establish separate pools for wagering within the Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

B. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving win, place, and show wagering, the licensee shall retain 1.25 percent of such pool to be distributed as follows: 0.75 percent to the Commonwealth as a license tax and 0.5 percent to the Virginia locality in which the racetrack is located.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving win, place, and show wagering, the licensee shall retain 1.25 percent of such pool to be distributed as follows: 0.75 percent to the Commonwealth as a license tax, 0.25 percent to the locality in which the satellite facility is located, and 0.25 percent to the Virginia locality in which the racetrack is located.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving win, place, and show wagering, the licensee shall retain 1.3 percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund;

2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

3. Five one-hundredths percent to the Virginia Horse Center Foundation;

4. Five one-hundredths percent to the Virginia Horse Industry Board; and

5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

E. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain 2.75 percent of such pool to be distributed as follows: 1.75 percent to the Commonwealth as a license tax and 1.0 percent to the Virginia locality in which the racetrack is located.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain 2.75 percent of such pool to be distributed as follows: 1.75 percent to the Commonwealth as a license tax, 0.5 percent to the locality in which the satellite facility is located, and 0.5 percent to the Virginia locality in which the racetrack is located.

G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth involving wagering other *than win, place, and show wagering, the licensee shall retain 1.3 percent of such pool to be distributed as follows:*

1. One percent of the pool to the Virginia Breeders Fund;

2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

3. Five one-hundredths percent to the Virginia Horse Center Foundation;

4. Five one-hundredths percent to the Virginia Horse Industry Board; and

5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

§ 29.5-638. Percentage retained; tax; historical horse racing.

On pari-mutuel pools generated by wagering on historical horse racing, the licensee shall retain 1.30 percent of such pool to be distributed as follows:

1. a. If generated at a racetrack, 0.56 percent to the locality in which the racetrack is located; or

b. If generated at a satellite facility before July 1, 2026, 0.28 percent to the locality in which the satellite facility is located and 0.28 percent to the Virginia locality in which the racetrack is located. If generated at a satellite facility on and after July 1, 2026, 0.56 percent to the locality in which the satellite facility is located;

2. To the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2, 0.025 percent;

3. To the Virginia Breeders Fund established pursuant to § 29.5-611, 0.05 percent;

4. To the (i) Virginia-Maryland Regional College of Veterinary Medicine for its equine programs, (ii) Virginia Horse Center Foundation, and (iii) Virginia Horse Industry Board, 0.025 percent each; and

5. The remainder to the Commonwealth as a license tax.

§ 29.5-639. Advance deposit account wagering revenues; distribution.

A. Notwithstanding the provisions of this article, the allocation of revenue from advance deposit account wagering shall include (i) a licensee fee of 1.5 percent paid to the Racing Commission; (ii) an additional fee equal to one percent of all wagers made within the Commonwealth placed through an advance deposit account wagering licensee, which shall be paid to the Virginia Breeders Fund, and (iii) an additional fee equal to nine percent of all wagers made within the Commonwealth placed through an advance deposit account wagering licensee, out of which shall be paid:

1. Four percent to the recognized industry stakeholder organization; and

2. Five percent to representatives of the recognized majority horsemen's group by breed to be used for purse funds at horse races conducted in the Commonwealth, unless otherwise authorized by the Racing Commission.

Notwithstanding the foregoing, if the advance deposit account wagering licensee is a significant infrastructure limited licensee, the additional fee equal to nine percent of the wagers placed through such advance deposit account wagering licensee since November 1, 2014, shall instead be retained by such licensee for operational expenses, including defraying the costs of live horse racing.

B. The recognized industry stakeholder organization shall make distributions from fees received from advance deposit wagering to organizations within the Commonwealth providing care for retired race horses, the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry Board, and the Virginia Thoroughbred Association in the percentages of wagering handles set forth in subsections D and G of § 29.5-637, and shall make a distribution of thirty-five one-hundredths of one percent of all wagers made within the Commonwealth placed through such advance deposit account wagering licensee to the locality where live racing licensed by the Commission occurred prior to January 1, 2012, and beginning January 1, 2020, to the locality or localities where such live horse racing occurs to be shared in a ratio of the number of such annual live horse races in a locality to the total number of such annual lives horse races in the Commonwealth. Distributions under this section from the recognized industry stakeholder organization to the foregoing entities and locality or localities, when added to the distributions to such entities and locality or localities under this article, shall be capped at the sum necessary to equal distributions made in the 2013 calendar year to each entity under this article, and shall be capped at the sum necessary to equal $400,000 for a locality or localities.

C. Any additional distribution of fees received from advance deposit account licensees by the recognized industry stakeholder organization shall be approved by the Racing Commission.

§ 29.5-640. Admissions tax.

The governing body of any county or city may, by ordinance, impose a $0.25 admissions tax on any licensee for each person at a race meeting conducted at a track located solely in such county or city on each day, except that those persons holding a valid e-permit pursuant to the provisions of this chapter and actually employed at such track in the capacity for which such permit was issued shall not be taxed. The licensee may collect the amount of such tax from the ticket holder in addition to the amount charged for the price of admission.

If such racetrack or its enclosure is located in two or in three localities, each locality may impose a tax pursuant to this section of 12 and one-half cents or eight and one-third cents per person, respectively.

Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 does not include the admissions tax imposed under this section.

Article 6.

Prohibited Acts; Penalties.

§ 29.5-641. Unlawful conduct of wagering; penalty.

Any person not licensed pursuant to this chapter who conducts (i) pari-mutuel wagering or (ii) horse racing on which wagering is conducted with his knowledge or consent is guilty of a Class 4 felony.

§ 29.5-642. Fraudulent use of credential; penalty.

A. Any person who has in his possession (i) any credential, license, or permit issued by the Commissioner or the Racing Commission other than the lawful holder thereof or (ii) a forged or simulated credential, license, or permit of the Commission or the Racing Commission, and uses such credential, license, or permit for the purpose of misrepresentation, fraud, or touting is guilty of a Class 4 felony.

B. Any credential, license, or permit issued by the Commissioner or the Racing Commission shall be automatically revoked if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties on a racetrack or within a satellite facility, whether so used on or off a racetrack or satellite facility.

§ 29.5-643. Unlawful transmission of information; penalty.

A. Any person who knowingly transmits information as to the progress or results of a horse race, or information as to wagers, betting odds, post or off times, or jockey changes in any horse race by any means whatsoever for the purposes of carrying on illegal gambling operations as defined in § 29.5-900, or to a person engaged in illegal gambling operations is guilty of a Class 4 felony.

B. This section shall not be construed to prohibit (i) a newspaper from printing such results or information as news or (ii) any television or radio station from telecasting or broadcasting such results or information as news.

C. This section shall not be so construed as to place in jeopardy any common carrier or its agents performing operations within the scope of a public franchise or any gambling operation authorized by law.

§ 29.5-644. Touting; penalty.

Any person who (i) knowingly and designedly by false representation persuades, procures, or causes, or attempts to persuade, procure, or cause, another person to wager on a horse in a race to be run in the Commonwealth or elsewhere, and upon which money is wagered in the Commonwealth, and (ii) asks or demands compensation as a reward for information or purported information given in such case is guilty of a Class 1 misdemeanor.

§ 29.5-645. Bribing of a jockey, driver, or other participant; penalty.

Any person who gives, promises, or offers to any jockey, driver, groom, or any person participating in any race meeting, including owners of racetracks and their employees, stewards, trainers, judges, starters, and special policemen, any valuable thing with intent to influence him to attempt to lose or cause to be lost a horse race in which such person is taking part or expects to take part, or has any duty or connection, or who, being either jockey, driver, groom, or participant in a race meeting, solicits or accepts any valuable thing to influence him to lose or cause to be lost a horse race in which he is taking part, or expects to take part, or has any duty or connection, is guilty of a Class 4 felony.

§ 29.5-646. Prohibited acts, administration of drugs, etc.; penalties.

A. Any person who, with the intent to defraud, acts to alter the outcome of a race by (i) the administration of any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Racing Commission, or (ii) the use of any device, electrical or otherwise, except those specifically permitted by the regulations of the Racing Commission, is guilty of a Class 4 felony.

B. Any person who, with the intent to defraud, influences or conspires with another to alter the outcome of a horse race by (i) the administration of any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Racing Commission, or (ii) the use of any device, electrical or otherwise, except those specifically permitted by the regulations of the Racing Commission, is guilty of a Class 4 felony.

C. Any person who (i) administers any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Racing Commission, when the horse is entered to start or (ii) at any time, exposes any substance foreign to the natural horse with the intent of impeding or increasing the speed, endurance, health, or condition of a horse, is guilty of a Class 4 felony.

§ 29.5-647. Possessing drugs; penalty.

A. Except those drugs permitted by regulation of the Racing Commission, no person shall possess or transport any drug within the racing enclosure without a bona fide veterinarian's prescription with a complete statement of uses and purposes on the container. A copy of such prescription shall be filed with the stewards.

B. Any person knowingly violating the provisions of this section relating to the legal possession of drugs is guilty of a Class 1 misdemeanor.

C. The provisions of the Drug Control Act (§ 54.1-3400 et seq.) shall apply in situations where drugs regulated by the Drug Control Act are within the racing enclosure.

§ 29.5-648. Horse racing under false name; penalty.

Any person who knowingly (i) enters or races any horse in any running or harness race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association or (ii) instigates, engages in, or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association, is guilty of a Class 4 felony.

§ 29.5-649. Prohibition on underage pari-mutuel wagering; penalty.

A. No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is 18 years of age or older.

B. No person shall accept any wager from a minor.

C. No person shall be admitted into a satellite facility if such person is younger than 18 years of age unless accompanied by a parent or legal guardian.

D. No person younger than 21 years of age shall use any electronic gaming terminal or other electronic device in a satellite facility to wager on or conduct any wagering on historical horse racing.

E. Violation of this section is a Class 1 misdemeanor.

§ 29.5-650. Conspiracies and attempts to commit violations; penalty.

A. 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 4 felony.

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

SUBTITLE II.

VIRGINIA LOTTERY.

CHAPTER 7.

GENERAL PROVISIONS.

§ 29.5-700. Short title.

This subtitle shall be known and may be cited as the "Virginia Lottery Law."

§ 29.5-701. Establishment of state lottery.

This subtitle establishes a lottery to be operated by the Commonwealth to produce revenue consonant with the probity of the Commonwealth and the general welfare of its people, to be used for the public purpose as provided in Article X, Section 7-A of the Constitution of Virginia.

§ 29.5-702. Definitions.

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

"Board" means the Virginia Lottery Board established by this subtitle.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to this subtitle.

"Director" means the Director of the Virginia Lottery.

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

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

§ 29.5-703. Virginia Lottery established.

Notwithstanding the provisions of Subtitle III (§ 29.5-900 et seq.) or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery, which shall include a Director and a Virginia Lottery Board for the purpose of operating a state lottery.

§ 29.5-704. Membership of Board; appointment; terms; vacancies; removal; expenses.

A. The Board shall consist of five members, all of whom shall be citizens and residents of the Commonwealth and shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Prior to the appointment of any Board members, the Governor shall consider the political affiliation and the geographic residence of the Board members. The members shall be appointed for terms of five years. The members shall annually elect one member as chair of the Board.

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

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

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

§ 29.5-705. Appointment, qualifications, and salary of Director.

A. The Department shall be under the immediate supervision and direction of a Director, who shall be a person of good reputation, particularly as to honesty and integrity, and shall be subject to a thorough background investigation conducted by the Department of State Police prior to appointment. The Director shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Director shall receive a salary as provided in the general appropriation act.

B. The Director shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. Before entering upon the discharge of his duties, the Director shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein and shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

§ 29.5-706. Powers of the Director.

A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this subtitle and with the rules and regulations promulgated hereunder.

B. The Director shall also:

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

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

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 29.5-709 and Department employees with access to Department funds or lottery funds in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

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

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

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

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

8. Report monthly to the Governor, the Secretary of Finance, and the Chairs of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding month and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses to the Governor and the General Assembly.

9. Report immediately to the Governor and the General Assembly any matters that require immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this subtitle or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

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

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

12. Participate in the Problem Gambling Treatment and Support Advisory Committee, established pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services, to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling.

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

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

§ 29.5-707. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery pursuant to this subtitle. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares. The regulations, which may be amended, repealed, or supplemented as necessary, shall include the following:

1. The type or types of lottery or game to be conducted in accordance with § 29.5-701.

2. The price or prices of tickets or shares in the lottery.

3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.

4. The manner of selecting the winning tickets or shares.

5. The manner of payment of prizes to the holders of winning tickets or shares.

6. The frequency of the drawings or selections of winning tickets or shares without limitation.

7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.

8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the internet.

9. The advertisement of the lottery in accordance with the provisions of subsection E of § 29.5-717.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person younger than 18 years of age shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the Board shall promulgate regulations, after consultation with the Director, relative to departmental procurement that include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and that ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify, administrative decisions of the Director. However, the Board shall have the power to accept, modify, or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this subtitle or the regulations issued hereunder that cause abuses in the administration and operation of the lottery and any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this subtitle and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this subtitle and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this subtitle.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws that may be in effect in other states or countries, (ii) any literature on the subject that may be published or available, (iii) any federal laws that may affect the operation of the lottery, and (iv) the reaction of citizens of the Commonwealth to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this subtitle.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 and to subdivision B 5 of § 29.5-706.

E. The Board shall have the authority to initiate procedures for the planning, acquisition, and *construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.*

§ 29.5-708. Employees of the Department; background investigations of employees.

All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal records search and to the Department of State Police for a Virginia criminal history records search. All board members, officers, and employees of any vendor of lottery online or instant ticket goods or services working directly on a contract with the Department for such goods or services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal records search conducted by the chief security officer of the Department. A background investigation shall be conducted by the chief security officer of the Department on every applicant prior to employment by the Department. However, all division directors of the Department and employees of the Department performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the Virginia Lottery for the cost of investigations conducted pursuant to this section or § 29.5-705. No person who has been convicted of a felony, bookmaking, or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department or on contracts with vendors described in this section.

§ 29.5-709. Licensing of lottery sales agents; penalty.

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies, and instrumentalities thereof.

C. The chief security officer of the Department shall conduct a background investigation, to include a Virginia criminal history records search, and fingerprints that shall be submitted to the Federal Bureau of Investigation if the Director deems a national criminal records search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who 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) engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license issued pursuant to this subtitle to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b) convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to public confidence in the Lottery. Whoever 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 for licensure to the Department for lottery sales agent is guilty of a Class 1 misdemeanor.

D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or refused renewal pursuant to this section or § 29.5-712, no application for a new license to sell lottery tickets or shares shall be considered for a minimum period of 90 days following the suspension, revocation, or refusal to renew.

E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety company entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory to the Director, payable to the Virginia Lottery and conditioned upon the faithful performance of his duties.

F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

§ 29.5-710. Authority of persons licensed as lottery sales agents; annual fee.

A. Notwithstanding any other provision of law, any person licensed as provided in this subtitle is hereby authorized to act as a lottery sales agent.

B. The rules and regulations of the Department shall provide for an initial licensing fee and an annual license review fee to be collected from each lottery sales agent. Such fee, as promulgated by rule and regulation of the Board, shall be designed to recover all or such portion of the installation and annual operational costs borne by the Department in providing services to the agent.

§ 29.5-711. Meaning of "gross receipts."

A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 or § 29.5-812 relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision A 11 of § 29.5-707.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the Virginia Lottery.

§ 29.5-712. Suspension and revocation of licenses.

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this subtitle. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing, or investigation, whether by a third party or by the Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

3. Conviction of any offense referenced in subsection C of § 29.5-709 subsequent to licensure;

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

5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the Commonwealth lottery;

6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;

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

8. Other factors established by Department regulation.

§ 29.5-713. Prohibited actions; penalty.

Any person who (i) wrongfully and fraudulently uses, disposes of, conceals, or embezzles any public money or funds associated with the operation of the lottery; (ii) wrongfully and fraudulently tampers with any equipment or machinery used in the operation of the lottery; or (iii) makes inaccurate entries regarding a financial accounting of the lottery in order to conceal the truth, defraud the Commonwealth, and obtain money to which he is not entitled is guilty of a Class 3 felony.

§ 29.5-714. License required for "instant ticket" games or contests; penalty.

No person who owns or is employed by any retail establishment in the Commonwealth shall use any "instant ticket" game or contest for the purpose of promoting or furthering the sale of any product without first obtaining a license to do so from the Director. For the purposes of this section, an "instant ticket" game or contest means a game of chance played on a paper ticket or card where (i) a person may receive gifts, prizes, or gratuities and (ii) winners are determined by preprinted concealed letters, numbers, or symbols which, when exposed, reveal immediately whether the player has won a prize or entry into a prize drawing, but does not include any "instant ticket" game or contest licensed by the Virginia Gaming Commission pursuant to Chapter 2 (§ 29.5-200 et seq.). The fact that no purchase is required in order to participate shall not exclude such game or contest from the provisions of this section; however, nothing in this section shall prohibit any retail establishment from using a Virginia lottery ticket to promote or further the sale of any products except those having both a federal and state excise tax placed on them. Any person who violates this section is guilty of a Class 3 misdemeanor.

§ 29.5-715. Unclaimed prizes.

A. Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person entitled thereto for 180 days after the drawing in which the prize was won in the case of a drawing prize and for 180 days after the announced end of the lottery game in the case of a prize determined in any manner other than by means of a drawing. If no claim is made for the prize within the 180 days, the Director shall deem such prize forfeited by the person entitled to claim such winnings.

B. All prizes deemed forfeited pursuant to subsection A shall be paid into the Literary Fund. The Director may develop procedures, to be approved by the Auditor of Public Accounts, for estimating the cumulative total of such unclaimed prizes in any lottery game in lieu of specifically identifying unclaimed prizes where such specific identification would not be cost effective. The Director, within 60 days after the end of each 180-day retention period, shall report the total value of prizes forfeited at the end of such period to the Comptroller, who shall promptly transfer the total of such prizes to the Literary Fund. The total value of prizes forfeited during the fiscal year shall be audited by the Auditor of Public Accounts in accordance with § 29.5-719. In the case of a prize payable over time on one or more winning tickets, if one or more winning *tickets is not claimed within the 180-day redemption period, the Department shall transfer the then current monetary value of such portion of the prize remaining unclaimed to the Literary Fund in accordance with procedures approved by the State Treasurer. "Current monetary value" shall be determined by the net proceeds from the sale of that portion of jackpot securities allocated to the unclaimed winner plus the amount of the initial cash payment.*

C. Subsection B shall not apply to prizes of $25 or less resulting from any lottery game other than a lottery game in which a drawing determined the prize. The Board shall adopt regulations for the disposition of all such unclaimed prizes of $25 or less not resulting from a drawing. Such disposition shall be directed in whole or in part to either the Virginia Lottery Fund or to other forms of compensation to licensed sales agents.

D. For purposes of this section, "prize" refers to a cash prize. In the case of a prize payable over time and not as a lump sum payment, "prize" means the present cash value of the prize, not the value paid over time.

E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person whose unclaimed prize was deemed forfeited pursuant to subsection A while he was in active military service may claim such forfeited prize by presenting his winning ticket to the Director no later than 180 days after his discharge from active military service. Within 30 days of such presentation, the Director shall verify the claim and report the verification to the Comptroller. The Comptroller shall promptly pay the verified claim first from funds available in the Unclaimed Property Trust Fund; if such funds are insufficient, then, from any undesignated, unreserved year-end balance of the general fund. All verified claims shall be paid in accordance with the Board's rules and regulations then in effect regarding the manner of payment of prizes to the holders of winning tickets or shares.

§ 29.5-716. Deposit of moneys received by agents; performance of functions, etc., in connection with operation of lottery; compensation of agents.

A. The Director shall require all lottery sales agents to deposit to the credit of the Virginia Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares, and to file with the Director, or his designated agents, reports of their receipts, transactions, and disbursements pertaining to the sale of lottery tickets in such form and containing such information as he may require. Such deposits and reports shall be submitted at such times and within such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange for any person, including a bank, to perform such functions, activities, or services in connection with the operation of the lottery as he may deem advisable pursuant to this subtitle and the rules and regulations of the Department, and such functions, activities, and services shall constitute lawful functions, activities, and services of the person.

B. The rules and regulations of the Department shall provide for a service charge to the licensed agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the Virginia Lottery Fund by a licensed agent or for an electronic transfer of funds to the Virginia Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

The regulations of the Department shall provide for a service charge and penalty to a licensed agent if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to offset the Department's administrative costs.

C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not timely paid to the Virginia Lottery Fund in accordance with the rules and regulations of the Department and shall in addition thereto pay penalties as provided by rules and regulations of the Department.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in the Setoff Debt Collection Act (§ 58.1-520 et seq.), or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. Notwithstanding the provisions of Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, in any action for the collection of a debt owed by any licensed agent to the lottery, venue shall lie in the City of Richmond.

F. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the Virginia Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. Sales agents shall be personally liable for all proceeds.

G. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled *with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the Virginia Lottery Fund.*

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the Virginia Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable explanation, (b) has a credit record reflecting recent actions that cast doubt as to its creditworthiness, (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d) states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or proceeds that are or will become due and payable to the Virginia Lottery Fund.

§ 29.5-717. Virginia Lottery Fund.

A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and compensation of agents as authorized by regulation and any other revenues received under this subtitle, shall be placed in a special fund known as the "Virginia Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the Virginia Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the Virginia Lottery Fund and shall be in such amount as provided in the general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent compensation, shall at no time exceed 10 percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor, and the Chairs of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of the Department for (i) operation of the lottery, (ii) use if the game's pay-out liabilities exceed its cash on hand, or (iii) enhancement of the prize pool with income derived from lending securities held for payment of prize installments, which lending of securities shall be conducted in accordance with lending programs approved by the Department of the Treasury.

C. The Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 29.5-718, less the special reserve fund, the audited balances of the Virginia Lottery Fund at the close of each fiscal year. The transfer for each year shall be made in two parts: (i) on or before June 30, the Comptroller shall transfer balances of the Virginia Lottery Fund for the fiscal year, based on an estimate determined by the Virginia Lottery, and (ii) no later than 10 days after receipt of the annual audit report required by § 29.5-719, the Comptroller shall transfer to the Lottery Proceeds Fund the remaining audited balances of the Virginia Lottery Fund for the fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the transfer was based, the State Comptroller shall transfer the difference between the actual revenue and the estimate from the Lottery Proceeds Fund to the Virginia Lottery Fund.

D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of the Constitution of Virginia. The additional appropriation of lottery revenues to local school divisions for public education purposes consistent with this provision shall be used for operating, capital outlay, or debt service expenses, as determined by the appropriation act. The additional appropriation of lottery revenues shall not be used by any local school division to reduce its total local expenditures for public education in accordance with the provisions of the general appropriation act.

E. As a function of the administration of this subtitle, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions A 1 through 7 of § 29.5-707 and (ii) the fact that the net proceeds are paid into the Lottery Proceeds Fund of the Commonwealth, but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

§ 29.5-718. Lottery Proceeds Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Lottery Proceeds 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 amounts deposited into it from the net revenues of any lottery conducted by the Commonwealth pursuant to Article X, Section 7-A of the Constitution of Virginia.

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

§ 29.5-719. Post-audit of accounts and transactions of Department; post-compliance audits.

A regular post-audit shall be conducted of all accounts and transactions of the Department. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Department shall be conducted by the Auditor of Public Accounts on or before August 15 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Department. The Board may order such other audits as it deems necessary and desirable.

§ 29.5-720. Employees of the Department.

Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, ethnic or national origin, religion, age, disability, or political affiliation.

§ 29.5-721. Judicial review.

The action of the Board in granting or denying a license or registration or in suspending or revoking any license or registration under the provisions of this subtitle shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

CHAPTER 8.

ADMINISTRATION OF TICKETS AND PRIZES.

§ 29.5-800. Lottery tickets to bear telephone number for compulsive gamblers.

All lottery tickets shall bear a toll-free telephone number for "Gamblers Anonymous" or other organization that provides assistance to compulsive gamblers.

§ 29.5-801. Posting of illegal gaming tip line.

Every licensed lottery sales agent shall post in a conspicuous place in its retail establishment a sign that bears (i) the toll-free telephone number and website for the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police pursuant to § 52-54 for members of the public to report concerns about, or suspected instances of, illegal gaming activities and (ii) the toll-free telephone number for the National Problem Gambling Helpline.

§ 29.5-802. Right to prize not assignable; exceptions.

A. No right of any person to a prize drawn shall be assignable, except that: (i) payment of any prize drawn may be paid according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department or to the estate of a deceased prize winner who has not completed such a form; (ii) the prize to which the winner is entitled may be paid to a person pursuant to an appropriate judicial order; and (iii) payment of any prize drawn may be paid in accordance with the provisions of § 29.5-811. Payments made according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department are effective by reason of the contract involved and this statute and are not to be considered as testamentary or subject to Chapter 4 (§ 64.2-400 et seq.) of Title 64.2. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

B. Investments of prize proceeds made by the Department to fund the payment of an annuitized prize are to be held in the name of the Department or the Commonwealth and not in the name of the prize winner. Any claim of a prize winner to a future payment remains inchoate until the date the payment is due under Department regulations.

C. Except as provided in Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and this subtitle, no lottery prize or installment thereof may be subject to garnishment or to a lien of any kind until such prize or installment thereof has been paid or distributed.

D. Whenever the Department or the Director is or may be named as a party in any proceeding instituted by or on behalf of one or more persons who claim ownership of a winning lottery ticket, prize, share, or portion thereof for the purpose of determining the ownership or right to such ticket, prize, share, or portion thereof, the Director may voluntarily pay or tender the prize, share, or portion thereof into the circuit court where the action is filed, or may be ordered to do so by the court, and shall thereupon be discharged from all liability as between the claimants of such ticket, prize, share, or portion thereof without regard to whether such payment was made voluntarily or pursuant to a court order.

Nothing in this section shall be deemed to constitute a waiver of the sovereign immunity of the Commonwealth or to authorize any attachment, garnishment, or lien against the prize, share, or portion thereof paid into the court except as permitted by subsection C.

§ 29.5-803. Price of tickets or shares; who may sell; penalty.

No person shall sell a ticket or share at any price or at any location other than that fixed by rules and regulations of the Department. No person other than a licensed lottery sales agent or his employee shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from *giving lottery tickets or shares to another person 18 years of age or older as a gift. No person shall operate a ticket courier service in the Commonwealth.*

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

§ 29.5-804. Method of payment for purchase of tickets or shares.

Lottery sales agents licensed in accordance with this subtitle shall accept only cash or debit cards in payment for the purchase of lottery tickets or shares.

§ 29.5-805. Sale of ticket or share to person younger than 18 years of age prohibited; penalty.

No ticket or share shall be sold to or redeemed from any person younger than 18 years of age. Any licensee who knowingly sells or offers to sell or redeem a lottery ticket or share to or from any person younger than 18 years of age is guilty of a Class 1 misdemeanor.

§ 29.5-806. Gift to minor prohibited; penalty.

No ticket or share shall be given as a gift or otherwise to any person younger than 18 years of age. Any person who knowingly gives a lottery ticket or share to any person younger than 18 years of age is guilty of a Class 3 misdemeanor.

§ 29.5-807. Alteration and forgery; presentation of counterfeit or altered ticket or share; penalty.

Any person who (i) forges, alters, or fraudulently makes any lottery ticket or share with intent to present for payment or to transfer to another person to be presented for payment or (ii) knowingly presents for payment or transfers to another person to be presented for payment such forged, altered, or fraudulently made counterfeit lottery ticket or share sold pursuant to this subtitle is guilty of a Class 6 felony.

§ 29.5-808. Larceny of tickets; fraudulent notification of prizes; penalty.

A. Any person who steals or otherwise unlawfully converts to his own or another's use a lottery ticket, prize, share, or portion thereof is guilty of larceny. For purposes of this subsection, the value of a lottery ticket, prize, share, or portion thereof shall be deemed to be the greater of its face amount or its redemption value.

B. Any person who, with intent to defraud, steal, embezzle, or violate the provisions of § 18.2-186.3, designs, makes, prints, or otherwise produces, in whole or in part, a document or writing, whether in printed or electronic form, that falsely purports to be correspondence from or on behalf of the lottery is guilty of a Class 5 felony.

Jurisdiction shall lie and prosecution may proceed under this subsection in any county or city (i) in which the document was created; (ii) from which it was sent, regardless of the form of delivery; or (iii) in which it was received, regardless of the form of delivery.

§ 29.5-809. Ticket discounting; civil penalties.

A. As used in this section, "ticket discounting" means reselling or having a person other than the prize winner claim a winning lottery ticket or buying or claiming a winning lottery ticket for the purpose of assisting the original prize winner with concealing his identity as a prize winner.

B. No person shall engage in the practice of ticket discounting.

C. Any person found to have engaged in the practice of ticket discounting shall be fined as determined by the Director (i) for prizes of less than $1,000, not more than $250; (ii) for prizes of $1,000 or more but less than $5,000, more than $250 but not more than $500; and (iii) for prizes of $5,000 or more, no less than $1,000. All fines recovered for violations of this section shall be paid into the state treasury to the credit of the Literary Fund, in accordance with § 19.2-353.

§ 29.5-810. Certain persons ineligible to purchase tickets or shares or receive prizes.

A. No ticket or share shall be purchased by, and no prize shall be paid on a ticket purchased by or transferred to, any (i) Board member, officer, or employee of the Lottery; (ii) board member, officer, or employee of any vendor to the Lottery of lottery online or instant ticket goods or services working directly on a contract with the Department for such goods or services; (iii) person residing in the same household of such member, officer, or employee; or (iv) person younger than 18 years of age or the transferee of any such person.

B. Only natural persons may purchase lottery tickets and claim prize winnings. In all cases, the identity and social security number of all natural persons who receive a prize greater than $100 from a winning ticket redeemed at any Department office shall be provided in order to comply with this section and §§ 29.5-805, 29.5-806, and 29.5-813 and Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2.

§ 29.5-811. Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.

A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address, and social security number or tax identification number of the assignee or lender and shall specifically describe the payments be assigned or pledged as collateral by date and gross pre-tax amount. The Department shall be given notice of any hearing held pursuant to this section and shall have the right to appear and participate in such hearing. Venue for hearings held pursuant to this section shall be in the

Circuit Court of the City of Richmond.

The rate charged for any such assignment or loan shall not exceed 15 percent.

The contract shall:

1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm the assignment or loan has been voluntarily executed.

2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and has either received such advice or knowingly waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the Virginia Lottery, in response to a written request therefor, confirmation of the assignee's or lender's registration with the Virginia Lottery in accordance with subsection E.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share, or receive prizes of the Virginia Lottery pursuant to §§ 29.5-805, 29.5-806, and subsection A of § 29.5-810, and that the Virginia Lottery has complied with subsection B of § 29.5-810 in that the original prizewinner is, or if deceased, was, a natural person if and to the extent that the prize was awarded on or after the effective date pursuant to subsection B of § 29.5-810.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1.

B. The Commonwealth, the Virginia Lottery, and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.

C. The Virginia Lottery may establish a reasonable fee to process the assignments provided for in this section and to receive, review, and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the Virginia Lottery shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender, or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective assignee, lender, or prospective lender is associated with or an agent of the Virginia Lottery. Every prospective assignee or prospective lender shall register with the Virginia Lottery prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers; (ii) the assignee's or lender's standard form of agreement; (iii) the assignee's or lender's federal tax identification number; and (iv) where applicable, the assignee's or lender's most recent public financial statement. The Director may deny, suspend, or revoke a registration for a violation of this subtitle or for such other reasons as the Board, by regulation, may establish.

§ 29.5-812. Exemption of lottery prizes and sales of tickets from state and local taxation.

Except as provided in § 29.5-711 and Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the Virginia Lottery Law.

§ 29.5-813. Set-off of debts to the Commonwealth from prizes.

The Director shall establish by rule and regulation a set-off debt collection program in accordance with the provisions of the Setoff Debt Collection Act (§ 58.1-520 et seq.), wherein certain prizes shall be subjected to delinquent debts of agencies and institutions of the Commonwealth. The Director shall be responsible for the administration of the program and shall ensure by rule and regulation of the Department that any agency eligible to participate in the Setoff Debt Collection Act shall be eligible to participate in the lottery prize set-off. The Tax Commissioner shall transmit to the Director, at such intervals as requested by the Director, a *listing of claimant agencies and delinquent debts owed thereto.*

§ 29.5-814. Disclosure of identity of winners by the Department.

Except as provided in subsection B of § 29.5-810, the Department shall not disclose information about the identity of an individual lottery winner if the value of the prize won by the winner is $1 million or greater, unless the winner consents in writing to such disclosure.

SUBTITLE III.

ILLEGAL GAMBLING.

CHAPTER 9.

ILLEGAL GAMBLING.

§ 29.5-900. Definitions.

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

"Amusement device" means a game that is activated by a coin, token, or other object of consideration or value and that does not provide the opportunity to (i) enter into a sweepstakes, lottery, or other illegal gambling event or (ii) receive any form of consideration or value, except for an appropriate reward.

"Appropriate reward" means a noncash, merchandise prize (i) the value of which does not exceed the cost of playing the amusement device or the total aggregate cost of playing multiple amusement devices, (ii) that is not and does not include an alcoholic beverage, (iii) that is not eligible for repurchase, and (iv) that is not exchangeable for cash or cash equivalents.

"Gambling device" means (i) any device, machine, paraphernalia, equipment, or other thing, including all books, records, and other papers, which are actually used in an illegal gambling operation or activity; (ii) any machine, apparatus, implement, instrument, contrivance, board, or other thing, or any electronic or video version thereof, including 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 definition; and provided further, that machines that only sell, or entitle the user to obtain, 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 definition; and (iii) 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.

"Illegal gambling" means the making, placing, or receipt of any bet or wager within 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 purposes of this 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 includes 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 clause (ii) 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.

"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.

"Operator" means 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.

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

"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 a device that (i) contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) is 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.

"Unregulated location" means any location that is not regulated or operated by the Virginia Gaming Commission, the Virginia Lottery or the Virginia Lottery Board, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 29.5-901. Greyhound racing and simulcasting prohibited; penalty.

Any person who (i) holds, conducts, or operates any greyhound race for public exhibition in the Commonwealth for monetary remuneration or (ii) transmits or receives interstate or intrastate simulcasting of any greyhound race for commercial purposes in the Commonwealth is guilty of a Class 4 felony.

§ 29.5-902. Penalty for illegal gambling.

A. Except as otherwise provided in this chapter, any person who illegally gambles or engages in interstate gambling is guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gambles, each such person is guilty of illegal gambling.

B. However, if any person makes, places, or receives any bet or wager of money or other thing of value on a live horse race or historical horse race in the Commonwealth, whether such race is inside or outside the limits of the Commonwealth, at any place or through any means other than (i) a racetrack or satellite facility, as defined in § 29.5-601, licensed by the Virginia Racing Commission pursuant to Chapter 6 (§ 29.5-600 et seq.), (ii) advance deposit account wagering, as defined in § 29.5-601, or (iii) a racetrack or satellite facility licensed by the Virginia Gaming Commission pursuant to Chapter 6 (§ 29.5-600 et seq.) to conduct historical horse racing, such person is guilty of a Class 1 misdemeanor. For purposes of this subsection, venue shall be in any county or city in which any act was performed in furtherance of any course of conduct constituting illegal gambling.

§ 29.5-903. Winning by fraud; penalty.

If any person, while gambling, cheats, or by fraudulent means wins or acquires for himself or another money or any other valuable thing, he shall be fined not less than five nor more than 10 times the value of such winnings. Such penalty shall be in addition to any other penalty imposed under this chapter.

§ 29.5-904. Conducting an illegal gambling operation; penalties.

A. As used in this section, "gross revenue" means the total amount of illegal gambling transactions handled, dealt with, received by, or placed with such operation, as distinguished from any net figure or amount from which deductions are taken, without regard to whether money or any other thing of value actually changes hands.

B. The operator of an illegal gambling enterprise, activity, or operation is guilty of a Class 6 felony. However, any such operator who engages in an illegal gambling operation that has (i) been or remains in substantially continuous operation for a period in excess of 30 days or (ii) gross revenue of $2,000 or more in any single day shall be fined not more than $20,000 and imprisoned not less than one year nor more than 10 years.

§ 29.5-905. Owners, etc., of gambling place permitting its continuance; penalty.

Any owner, lessee, tenant, occupant, or other person in control of any place or conveyance who knows, or reasonably should know, that such place or conveyance 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 is guilty of a Class 1 misdemeanor.

§ 29.5-906. Accessories to gambling activity; penalty.

Any person, firm, or association of persons, other than those persons specified in other sections of this chapter, who knowingly aids, abets, or assists in the operation of an illegal gambling enterprise, activity, or operation is guilty of a Class 1 misdemeanor.

§ 29.5-907. Illegal possession, etc., of a gambling device; enforcement; penalty.

A. Any person who (i) manufactures, sells, transports, rents, gives away, places, or possesses, or (ii) 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 is guilty of illegal possession of a gambling device, a Class 1 misdemeanor.

B. If it comes to the knowledge of the Governor that the provisions of this section are not being enforced in any locality, the Governor may call upon the Attorney General to direct its enforcement in such locality. The Attorney General may instruct the attorney for the Commonwealth and the chief law-enforcement officer of such locality to take such steps as may be necessary to ensure the enforcement of this section in such locality. If any such officers, after receiving such instructions, fail or refuse to exercise due diligence in the enforcement of this section, the Attorney General shall report, in writing, to the Governor and to the judge of the circuit court having jurisdiction over the acts thereby prohibited. The Attorney General, upon being directed to do so by the Governor, shall take such steps he deems proper in directing the institution and prosecution of criminal proceedings to enforce this section.

§ 29.5-908. Operation of 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 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 Commonwealth 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.

§ 29.5-909. Certain acts not deemed "consideration" in prosecution under this chapter.

In any prosecution under this chapter, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing, or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding; or any one or more thereof, where no charge is made to, paid by, or any purchase required of him in connection with such action.

§ 29.5-910. Immunity of witnesses from prosecution.

No witness called by the Commonwealth or by the court, giving evidence before the grand jury or in any prosecution under this chapter, shall be prosecuted for the offense being prosecuted concerning which he is testifying. Such witness shall be compelled to testify and may be punished for contempt for his refusal to testify.

§ 29.5-911. Enjoining offenses related to illegal gambling.

Whenever any person commits, permits to be committed, or is about to commit or permit any act prohibited by any one or more of the sections in this chapter, the attorney for the Commonwealth of the county or city in which such act is being, or is about to be, committed or permitted, or the Attorney General of the Commonwealth, may institute and maintain a suit in equity in the appropriate court, in the name of the Commonwealth, upon the relation of such attorney for the Commonwealth, or the Attorney General, to enjoin and restrain such person from committing, or permitting, such prohibited act or acts. The procedure in any such suit shall be similar to the procedure in other suits for injunctions, except that no bond shall be required upon the granting of either a temporary or permanent injunction therein.

§ 29.5-912. County ordinances prohibiting illegal gambling.

The governing body of any county may adopt ordinances prohibiting illegal gambling, including a provision for forfeiture proceedings in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. Such ordinances shall not conflict with the provisions of this chapter or with other state laws, and any penalties provided for violation of such ordinances shall not exceed a fine of $2,500 or confinement in jail for 12 months, either or both.

§ 29.5-913. Exceptions to chapter; penalty.

A. Nothing in this chapter shall be construed to prevent any contest of speed or skill between people, animals, fowl, or vehicles, where participants may receive prizes or different percentages of a purse, stake, or premium dependent upon whether they win or lose or upon their position or score at the end of such contest.

Any participant, who, for the purpose of competing for any such purse, stake, or premium offered in any such contest, knowingly and fraudulently enters (i) any contestant other than the contestant purported to be entered or (ii) a contestant in a class in which it does not belong, is guilty of a Class 3 misdemeanor.

B. Nothing in this chapter shall be construed to make it illegal to participate in a game of chance conducted in a private residence, provided such private residence is not commonly used for such games of chance and there is no operator.

C. Nothing in this chapter shall:

1. Apply to any bingo game, instant bingo, network bingo, raffle, duck race, or Texas Hold'em poker tournament conducted solely by organizations, as defined in § 29.5-200, that have received a permit, as set forth in § 29.5-209, or which are exempt from the permit requirement under § 29.5-206;

2. Be construed to make it illegal to participate in any casino gaming operation conducted in accordance with Chapter 3 (§ 29.5-300 et seq.);

3. Apply to any sports betting or related activity that is lawful under Chapter 4 (§ 29.5-400 et seq.);

4. Apply to any fantasy contest conducted in accordance with the provisions of Chapter 5 (§ 29.5-500 et seq.);

5. Be construed to make it illegal to participate in any race meeting or pari-mutuel wagering conducted in accordance with Chapter 6 (§ 29.5-600 et seq.);

6. Apply to any lottery conducted by the Commonwealth pursuant to Subtitle II (§ 29.5-700 et seq.); or

7. Apply to the placement or operation of, or communication to and from, data center equipment in the Commonwealth associated with the hosting of lottery games duly authorized by another state or jurisdiction and regulated and operated consistent with and exclusively for the benefit of such state or jurisdiction, provided that wagering on such games is legally authorized in such other state or jurisdiction and the *individuals wagering on such games are required by the laws or regulations of such other state or jurisdiction to be physically located within the geographic bounds of such other state or jurisdiction at the time the wager is initiated or placed.*

D. A person may make amusement devices available for play if the prize won or distributed to a player is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for an appropriate reward. An appropriate reward shall only be redeemable on the premises where the amusement device is located.

An amusement device shall not be designed or adapted to cause or enable a person to cause the release of free games or portions of games when designated as a potential reward for use of the device and shall not contain any meter or other measurement device to record the number of free games or portions of games that are rewarded.

An amusement device shall not be 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 is ordinarily required to play the game.

§ 37.2-304. Duties of Commissioner.

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

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

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

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

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

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

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

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities, within 15 working days of such critical incident or death; (ii) serious incidents and deaths that are required to be reported to the Department through its incident reporting system, as required by regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within 15 working days of the date the report is received; and (iii) allegations of abuse or neglect that are required to be reported pursuant to regulations adopted by the Board pursuant to Chapter 4 (§ 37.2-400 et seq.), within five working days of the date on which the director's final decision on the allegation is reported to the Department.

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

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

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

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

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the

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

13. To establish a comprehensive program for the prevention and treatment of problem gambling in the Commonwealth and administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

14. To establish and maintain the Problem Gambling Treatment and Support Advisory Committee (the Advisory Committee) to enable collaboration among prevention and treatment providers and operators of legal gaming in the Commonwealth on efforts to reduce the negative effects of problem gambling. The Advisory Committee shall be composed of (i) the Problem Gambling Prevention Coordinator from the Department; (ii) a representative from the Virginia Council on Problem Gambling; (iii) ~~one representative from each of the state agencies primarily responsible for regulating the lottery, casino gaming, sports betting, live horse racing with pari-mutuel wagering, historical horse racing, charitable gaming, and any other form of legal gaming permitted under state law~~ *the Director of the Virginia Lottery*; (iv) *the Deputy Commissioner of Gaming for the Virginia Gaming Commission; (v) the Executive Secretary for the Virginia Racing Commission; (vi)* the executive director of a community services board; ~~(v)~~ *(vii)* a casino gaming operator; ~~(vi)~~ *(viii)* a sports betting permit holder; ~~(vii)~~ *(ix)* a historical horse racing operator; and ~~(viii)~~ *(x)* a charitable gaming permit holder. The Problem Gambling Prevention Coordinator shall be the ~~chairman~~ *chair* of the Advisory Committee, and a ~~vice-chairman~~ *vice-chair* shall be elected from among the designated membership.

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

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

A. As used in this section:

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

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

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All ~~revenue accruing to~~ *moneys required to be deposited into* the Fund pursuant to ~~subsection A of § 58.1-4038~~ *Chapter 3 (§ 29.5-300 et seq.) of Title 29.5* and ~~moneys required to be deposited into~~ *all revenue accruing to* the Fund pursuant to ~~Chapter 41~~ ~~(§ 58.1-4100 et seq.) of Title 58.1~~ *29.5-408* shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing grants to support organizations that provide assistance to compulsive and problem gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 52-53. Definitions.

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

"Coordinator" means the position of the Gaming Enforcement Coordinator established pursuant to § 52-54.

"Department" means the Department of State Police.

"Gaming laws" means the laws regulating ~~gambling under Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2,~~ charitable gaming under ~~Article 1.1:1~~ *Chapter 2* (§ ~~18.2-340.15~~ *29.5-200* et seq.) of ~~Chapter 8 of~~ Title ~~18.2~~ *29.5*, ~~lottery games under Article 1 (§ 58.1-4000 et seq.) of Chapter 40 of Title 58.1,~~ *casino gaming under Chapter 3 (§ 29.5-300 et seq.) of Title 29.5,* sports betting under ~~Article 2~~ *Chapter 4* (§ ~~58.1-4030~~ *29.5-400* et seq.) ~~of Chapter 40~~ of Title ~~58.1~~ *29.5*, ~~casino gaming under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,~~ fantasy contests under Chapter ~~51~~ *5* (§ ~~59.1-556~~ *29.5-500* et seq.) of Title ~~59.1~~ *29.5*, *live* horse racing, *historical horse racing,* and *simulcast horse racing with* pari-mutuel wagering under Chapter ~~29~~ *6* (§

~~59.1-364~~ *29.5-600* et seq.) of Title ~~59.1~~ *29.5, lottery games under Subtitle II (§ 29.5-700 et seq.) of Title 29.5, gambling under Subtitle III (§ 29.5-900 et seq.) of Title 29.5,* any regulations promulgated pursuant to such laws, and any other federal, state, or local laws the Gaming Enforcement Coordinator deems relevant.

"Superintendent" means the Superintendent of State Police.

§ 52-54. Office of the Gaming Enforcement Coordinator established; purpose; duties.

A. The Superintendent shall designate a Department employee to serve as the Gaming Enforcement Coordinator. The purpose of the office of the Coordinator shall be to synchronize the enforcement of gaming laws by state and local law enforcement, and to serve as a liaison between such agencies and federal law enforcement.

B. The Coordinator shall have the following duties:

1. Coordinating enforcement of the Commonwealth's gaming laws by the Department, the ~~Department of Agriculture and Consumer Services~~ *Virginia Gaming Commission, the Virginia Lottery*, and all other state agencies~~;~~*,* attorneys for the Commonwealth~~;~~*,* and local law enforcement;

2. Acting as a liaison between the federal government and the agencies identified in subdivision 1 for purposes of any federal investigation into gaming activities;

3. Establishing, advertising, and administering a tip line, which may be accessed by phone and by ~~Internet~~ *internet*, for members of the public to report concerns about, or suspected instances of, *illegal* gaming activities; and

4. Performing any other duties as are necessary to promote and enable the equitable enforcement of gaming laws in the Commonwealth.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512, 58.1-2712.2, or 58.1-3826, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income, or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents, or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken, published, or shared with another agency or *political* subdivision of the Commonwealth in the line of duty under state law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions, or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm, or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm, or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales, and property of any person, firm, or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the ~~Department of Agriculture and Consumer Services~~ *Virginia Gaming Commission* such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of ~~Chapter 10.1,~~ *the* Enforcement of Illegal Sale or Distribution of Cigarettes Act *(§ 58.1-1031 et seq.)*; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm, or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association, or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city, or town is authorized to provide information relating to any motor vehicle, trailer, or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document that he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

G. Information provided by an accommodations intermediary pursuant to subsection F of § 58.1-3826 to the commissioner of the revenue, treasurer, or any other local tax or revenue officer or employee of a county, city, or town, or any other person to whom such tax information is divulged, shall be confidential pursuant to subsection A and shall not be divulged to any other department or official of the locality or any other political subdivision of the Commonwealth. Such information shall be used by such officials only for the purpose of levying and collecting retail sales and use tax, transient occupancy tax, and any other taxes imposed on the sale of accommodations.

§ 58.1-439. Major business facility job tax credit.

A. For taxable years beginning on and after January 1, 1995, but before July 1, 2025, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 as set forth in this section.

B. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A "major business facility" is a company that satisfies the following criteria:

1. Subject to the provisions of subsections K or L, the establishment or expansion of the company shall result in the creation of at least 50 jobs for qualified full-time employees; the first such 50 jobs shall be referred to as the "threshold amount"; and

2. The company is engaged in any business in the Commonwealth, except a retail trade business if such trade is the principal activity of an individual facility in the Commonwealth. Examples of types of major business facilities that are eligible for the credit provided under this section include~~, but are not limited to,~~ a

headquarters, or portion of such a facility, where company employees are physically employed, and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A company primarily engaged in the Commonwealth in the business of manufacturing or mining; agriculture, forestry, or fishing; transportation or communications; or a public utility subject to the corporation income tax shall be deemed to have established or expanded a major business facility in the Commonwealth if it meets the requirements of subdivision 1 during a single taxable year and such facilities are not retail establishments. A major business facility shall also include facilities that perform central management or administrative activities, whether operated as a separate trade or business, or as a separate support operation of another business. Central management or administrative activities include~~, but are not limited to,~~ general management; accounting; computing; tabulating; purchasing; transportation or shipping; engineering and systems planning; advertising; technical sales and support operations; central administrative offices and warehouses; research, development, and testing laboratories; computer-programming, data-processing, and other computer-related services facilities; and legal, financial, insurance, and real estate services. The terms used in this subdivision to refer to various types of businesses shall have the same meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in which the major business facility commenced or expanded operations.

E. The Department of Taxation shall make all determinations as to the classification of a major business facility in accordance with the provisions of this section.

F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a major business facility in the Commonwealth. A "new, permanent full-time position" is a job of an indefinite duration, created by the company as a result of the establishment or expansion of a major business facility in the Commonwealth, requiring a minimum of 35 hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" shall consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the major business facility in the Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in the Commonwealth to the new major business facility and positions in building and grounds maintenance, security, and other such positions which are ancillary to the principal activities performed by the employees at a major business facility shall not qualify as new, permanent full-time positions.

G. For any major business facility, the amount of credit earned pursuant to this section shall be equal to $1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year. However, for taxable years beginning on or after January 1, 2009, one-half of the credit amount shall be allowed each year for two years. The portion of the $1,000 credit earned with respect to any qualified full-time employee who is employed in the Commonwealth for less than 12 full months during the credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months that the qualified full-time employee worked for the major business facility in the Commonwealth during the credit year, and the denominator of which is 12. A separate credit year and a three-year allowance period shall exist for each distinct major business facility of a single taxpayer, except for credits allowed for taxable years beginning on or after January 1, 2009, when a two-year allowance period shall exist for each distinct major business facility of a single taxpayer.

H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent usable, carried over for the next 10 succeeding taxable years. No credit shall be carried back to a preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other ~~section~~ *provision* of ~~the~~ *this* Code ~~of Virginia~~, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

I. No credit shall be earned pursuant to this section for any employee (i) for whom a credit under this section was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (ii) who was previously employed in the same job function in Virginia by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (iii) whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b); or (iv) whose job function previously qualified for a credit under this section at a different major business facility on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b).

J. Subject to the provisions of subsections K or L, recapture of this credit, under the following circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable year in which a credit has been earned pursuant to this section if the number of qualified full-time employees decreases below the average number of qualified full-time employees employed during the credit year. Such tax increase amount shall be determined by (i) recomputing the credit which would have been earned for the original credit year using the decreased number of qualified full-time employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility shall be recaptured. No credit amount will be recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability may be increased.

K. In the event that a major business facility is located in an economically distressed area or in an enterprise zone as defined in Chapter 49 (§ 59.1-538 et seq.) of Title 59.1, during a credit year, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 50 to 25 for purposes of subdivision C 1 and subsection J. An area shall qualify as economically distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5 percent higher than the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all economically distressed areas at least annually.

L. For taxable years beginning on or after January 1, 2004, but before January 1, 2006, in the event that a major business facility is located in a severely economically distressed area, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 100 to 25 for purposes of subdivision C 1 and subsection J. However, the total amount of credit allowable under this subsection shall not exceed $100,000 in aggregate. An area shall qualify as severely economically distressed if it is a city or county with an unemployment rate for the preceding year of at least twice the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all severely economically distressed areas at least annually.

M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), relating to (i) the computation, carryover, and recapture of the credit provided under this section; (ii) defining criteria for (a) a major business facility, (b) qualifying full-time employees at such facility, and (c) economically distressed areas; and (iii) the computation, carryover, recapture, and redemption of the credit by affiliated companies pursuant to subsection S.

N. The provisions of this section shall apply only in instances where an announcement of intent to establish or expand a major business facility is made on or after January 1, 1994. An announcement of intent to establish or expand a major business facility includes~~, but is not limited to,~~ a press conference or extensive press coverage, providing information with respect to the impact of the project on the economy of the area where the major business facility is to be established or expanded and the Commonwealth as a whole.

O. The credit allowed pursuant to this section shall be granted to the person who pays taxes for the qualified full-time employees pursuant to Chapter 5 (§ 60.2-500 et seq.) of Title 60.2.

P. No person shall claim a credit allowed pursuant to this section and the credit allowed pursuant to § 58.1-439.2. Any qualified business firm receiving an enterprise zone job creation grant under § 59.1-547 shall not be eligible to receive a major business facility job tax credit pursuant to this section for any job used to qualify for the enterprise zone job creation grant.

Q. No person operating a business in the Commonwealth pursuant to Chapter ~~29~~ *6* (§ ~~59.1-364~~ *29.5-600* et seq.) of Title ~~59.1~~ *29.5* shall claim a credit pursuant to this section.

R. Notwithstanding subsection O, a taxpayer may, for the purpose of determining the number of qualified full-time employees at a major business facility, include the employees of a contractor or a subcontractor if such employees are permanently assigned to the taxpayer's major business facility. If the taxpayer includes the employees of a contractor or subcontractor in its total of qualified full-time employees, it shall enter into a contractual agreement with the contractor or subcontractor prohibiting the contractor or subcontractor from also claiming these employees in order to receive a credit given under this section. The taxpayer shall provide evidence satisfactory to the Department of Taxation that it has entered into such a contract.

S. For purposes of satisfying the criteria of subdivision C 1, two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees as the result of the establishment or expansion by the individual companies in order to qualify for the credit allowed pursuant to this section. For purposes of this subsection, "affiliated companies" means two or more companies related to each other such that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) at least 80 percent of the voting power of two or more companies is owned by the same interests.

T. The General Assembly of Virginia finds that modern business infrastructure allows businesses to locate their administrative or manufacturing facilities with minimal regard to the location of markets or the transportation of raw materials and finished goods, and that the economic vitality of the Commonwealth would be enhanced if such facilities were established in Virginia. Accordingly, the provisions of this section targeting the credit to major business facilities and limiting the credit to those companies which establish a major business facility in Virginia are integral to the purpose of the credit earned pursuant to this section and shall not be deemed severable.

U. For taxable years beginning on and after January 1, 2019, and notwithstanding the provisions of § 58.1-3 or any other provision of law, the Department of Taxation, in consultation with the Virginia Economic Development Partnership, shall publish the following information by November 1 of each year for the 12-month period ending on the preceding December 31:

1. The location of sites used for major business facilities for which a credit was claimed;

2. The North American Industry Classification System codes used for the major business facilities for which a credit was claimed;

3. The number of qualified full time employees for whom a credit was claimed; and

4. The total cost to the Commonwealth's general fund of the credits claimed.

Such information shall be published by the Department, regardless of how few taxpayers claimed the tax credit, in a manner that prevents the identification of particular taxpayers, reports, returns, or items.

§ 58.1-460. Definitions.

For the purposes of this article:

"Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth who performs or performed any service in the service outside the Commonwealth for wages. ~~The word "employee"~~ *"Employee"* also includes an officer, employee, or elected official of the United States, the Commonwealth, or any other state or any territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, or an officer of a corporation. ~~The term shall~~ *"Employee" does* not include the beneficial owner of an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any agency or instrumentality of any one or more of the foregoing, or the person, whether a resident or a nonresident of the Commonwealth, for whom an individual performs or performed any service as an employee or from whom a person receives a prize in excess of $5,001 pursuant to the Virginia Lottery Law (§ ~~58.1-4000~~ *29.5-700* et seq.), except that:

1. If the person, governmental unit, or agency thereof, for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term "employer" (except as used in the definition of "wages" herein) means the person having control of the payment of such wages~~,~~*;* and

2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or business within the Commonwealth or on behalf of any governmental unit or agency thereof not located within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein) means such person. ~~The term shall~~ *"Employer" does* not include a financial institution, corporation, partnership, or other person or entity with respect to benefits paid as custodian, trustee, or depository for an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

"Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

"Wages" means wages as defined under ~~§ 3401 (a)~~ *§ 3401(a)* of the Internal Revenue Code, as well as any other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of the Internal Revenue Code and also includes all prizes in excess of $5,001 paid by the Virginia Lottery; however, ~~such term shall~~ *"wages" does* not include amounts paid pursuant to individual retirement plans and simplified employee pension plans as defined in §§ 7701 (a)(37) and 408 (c) of the Internal Revenue Code and ~~shall~~ *does* not include remuneration paid for acting in or service as a member of the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional film filmed totally or partially in the Commonwealth by an individual or corporation which conducts business in the Commonwealth for less than 90 days of the tax year and when such film, series, or commercial is processed, edited, and marketed outside the Commonwealth. Every such individual or corporation shall, immediately subsequent to the filming of such portion of the film, series, or commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the Department, a list of the names and social security account numbers of each actor or crew member who is a resident of the Commonwealth and is compensated by such individual or corporation.

§ 58.1-3510. Definition of merchants' capital.

A. ~~Merchants'~~ *For purposes of this section, "merchants'* capital*"* ~~is defined as follows: Inventory~~ *means inventory* of stock on hand; daily rental vehicles as defined in § 58.1-1735; and all other taxable personal property of any kind whatsoever, except money on hand and on deposit and except tangible personal property not offered for sale as merchandise, which tangible personal property shall be reported and assessed as such.

B. For purposes of this section, a repair and service operation (i) carried on as an integral part of and in conjunction with a business that is primarily mercantile and (ii) the principal sales of such business are subject to the tax imposed by Article 9 (§ 58.1-1734 et seq.) of Chapter 17 or to the tax imposed by Chapter 24 (§ 58.1-2400 et seq.) ~~of this title~~ shall be deemed a mercantile business, and all capital, as defined herein, including all repair parts, materials, and supplies associated with such repair and service operation shall be deemed merchants' capital.

C. For purposes of valuing lottery tickets as part of a dealer's inventory, cost shall include only the compensation payable to a licensed sales agent as provided by rules or regulations adopted by the Board consistent with the provisions of subdivision *A* 11 ~~of subsection A~~ of § ~~58.1-4007~~ *29.5-707*. The value of lottery tickets shall not be based on the cost of the tickets to the merchant.

§ 58.1-3732.1. Limitation on gross receipts; pari-mutuel wagering.

Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) ~~shall~~ *does* not include the license and admission taxes established under §§ ~~59.1-392 and 59.1-393~~ *29.5-635, 29.5-636, 29.5-637, 29.5-638, and 29.5-640*, respectively, nor shall it include pari-mutuel wagering pools as established under ~~Article 1.1~~ *Chapter 2* (§ ~~18.2-340.15~~ *29.5-200* et seq.) ~~of Chapter 8~~ of Title ~~18.2~~ *29.5* or § ~~59.1-392~~ *Article 5 (§ 29.5-635 et seq.) of Chapter 6 of Title 29.5*.

§ 59.1-542.1. Local incentives; motor sports facilities.

A. A locality that is home to a motor sports facility, as defined in § ~~58.1-4030~~ *29.5-400*, in the Commonwealth may propose local incentives that address the economic conditions within such locality and will help stimulate real property improvements and new job creation. Such local incentives may include: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of business, professional, and occupational license taxes; or (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to § 58.1-3221. The extent and duration of such incentives shall conform to the requirements of the Constitutions of Virginia and the United States. Local incentives may also include regulatory flexibility, including (a) special zoning districts, (b) permit process reform, (c) exemptions from local ordinances, or (d) other public incentives that are binding on the locality.

B. A locality may establish eligibility criteria for local incentives that differ from the criteria required to qualify for the incentives provided by this chapter.

2. That §§ 2.2-2455 and 2.2-2456, Article 1 (§§ 18.2-325 through 18.2-340) of Chapter 8 of Title 18.2, Article 1.1:1 (§§ 18.2-340.15 through 18.2-340.37) of Chapter 8 of Title 18.2, Chapter 40 (§§ 58.1-4000 through 58.1-4048) of Title 58.1, Chapter 41 (§§ 58.1-4100 through 58.1-4141) of Title 58.1, Chapter 29 (§§ 59.1-364 through 59.1-405) of Title 59.1, Chapter 29.1 (§ 59.1-405.1) of Title 59.1, and Chapter 51 (§§ 59.1-556 through 59.1-570) of Title 59.1 are repealed.

3. That there shall be established a Virginia Gaming Oversight Commission (the Oversight Commission), which shall consist of seven members of the General Assembly. Members shall be appointed as follows: four members of the House of Delegates who are members of the House Committee on Appropriations or the House Committee on General Laws to be appointed by the Speaker of the House of Delegates and three members of the Senate who are members of the Senate Committee on Finance and Appropriations or the Senate Committee on General Laws and Technology to be appointed by the Senate Committee on Rules. The Oversight Commission shall elect a chair and vice-chair from among its membership; however, the chair and vice-chair shall not both be members of the House of Delegates, nor shall both the chair and vice-chair be members of the Senate. No recommendation of the Oversight Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Oversight Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Oversight Commission. The Oversight Commission shall exercise the function of overseeing the implementation of the provisions of this act and shall convene regularly for the purpose of making decisions regarding such implementation and providing direction to the Virginia Lottery in its role as the project management organization directed to oversee the implementation of the provisions of this act in accordance with the provisions of the fifth enactment of this act. The Oversight Commission shall expire (a) on July 1, 2027, or (b) upon the appointment of all members to the Virginia Gaming Commission Board, established pursuant to § 29.5-103 of the Code of Virginia, as created by this act, and the appointment of a Commissioner to the Virginia Gaming Commission pursuant to § 29.5-102 of the Code of Virginia, as created by this act, whichever occurs first.

4. That the Virginia Gaming Oversight Commission created pursuant to the third enactment of this act shall report quarterly on its progress to the Chairs of the House Committees on Appropriations and General Laws and the Senate Committees on Finance and Appropriations and General Laws and Technology.

5. That the Virginia Lottery shall operate as the project management organization to oversee and execute the work of the Virginia Gaming Oversight Commission as such Oversight Commission exercises its duties and responsibilities pursuant to the third enactment of this act. The Virginia Lottery shall cease all operations as the project management organization once the Virginia Gaming Commission Board, established pursuant to § 29.5-103 of the Code of Virginia, as created by this act, and the Commissioner of the Virginia Gaming Commission, appointed pursuant to § 29.5-102 of the

Code of Virginia, as created by this act, determine the Virginia Gaming Commission to be fully operational.

6. That the initial terms of office of those persons appointed to serve as nonlegislative citizen voting members on the Virginia Gaming Commission Board pursuant to § 29.5-103 of the Code of Virginia, as created by this act, shall be staggered as follows: two persons shall be appointed for a term of five years; two persons shall be appointed for a term of four years; three persons shall be appointed for a term of three years; one person shall be appointed for a term of two years; and one person shall be appointed for a term of one year. Thereafter, nonlegislative citizen voting members of the Virginia Gaming Commission Board shall serve for terms of five years.

7. That the initial terms of office of those persons appointed to serve as nonlegislative citizen voting members on the Virginia Racing Commission pursuant to § 29.5-602 of the Code of Virginia, as created by this act, shall be staggered as follows: two persons shall be appointed for a term of two years; two persons for a term of one year; and one person for a term of three years. Thereafter, nonlegislative citizen voting members of the Virginia Racing Commission shall serve for terms of five years.

8. That this act shall not be construed to affect existing appointments to the Charitable Gaming Board for the terms that have not expired. However, all new appointments to the Charitable Gaming Advisory Board, established pursuant to § 29.5-201 of the Code of Virginia, as created by this act, made on or after July 1, 2026, shall be made in accordance with the provisions of this act.

9. That this act shall not be construed to affect existing appointments to the Virginia Lottery Board (the Board) for the terms that have not expired, with the exception of the member who is a law-enforcement officer and the member who is a certified public accountant authorized to practice in the Commonwealth, both appointed pursuant to Chapters 1197 and 1248 of the Acts of Assembly of 2020, who shall be removed from the Board in accordance with the provisions of this act. However, all new appointments to the Board pursuant to § 29.5-704 of the Code of Virginia, as created by this act, made on or after the appointment of the nonlegislative citizen members of the Virginia Gaming Commission Board established pursuant to § 29.5-103 of the Code of Virginia, as created by this act, shall be made in accordance with the provisions of this act.

10. That the Chief Operating Officer of the Virginia Gaming Commission (the Commission) shall also serve as the Chief Transition Officer of the Commission to lead and coordinate the efforts between the Department of Agriculture and Consumer Services, the Virginia Lottery, and the Virginia Racing Commission (the relevant state agencies) and the Commission with respect to transitioning the oversight and regulation of charitable gaming, casino gaming, sports betting, fantasy sports, and historical horse racing from such relevant state agencies to the Commission. The duties of the Chief Operations Officer that are related to such transition shall expire upon the successful completion of the transition process.

11. That the regulations of the (i) Department of Agriculture and Consumer Services promulgated pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia; (ii) Virginia Lottery Board promulgated pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40 and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 of the Code of Virginia; and (iii) Virginia Racing Commission pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia, as repealed by this act, shall remain in full force and effect until the Virginia Gaming Commission Board promulgates regulations pursuant to this act. Regulations with respect to clause (i) shall be administered by the Department of Agriculture and Consumer Services and regulations with respect to clauses (ii) and (iii) shall be administered by the Virginia Lottery until the Virginia Gaming Commission Board promulgates regulations pursuant to this act. The provisions of this enactment shall become effective in due course.

12. That during the interim period between July 1, 2026, and the formal establishment of the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, the Virginia Lottery shall be responsible for conducting all necessary business functions assigned to the Commission pursuant to this act. Formal establishment shall include appointment of the Commissioner of the Commission pursuant to § 29.5-102 of the Code of Virginia, as created by this act, and achievement of staffing levels adequate to allow the Commission to independently accomplish such business functions as determined by the Commissioner and the Virginia Gaming Commission Board, established pursuant to § 29.5-103 of the Code of Virginia, as created by this act.

13. That in the event that ex officio membership on any board, commission, council, committee, or other body is affected by the provisions of this act, the Governor shall designate an appropriate successor officer, employee, or member of a board or agency established pursuant to the provisions of this act as a replacement.

14. That the Governor may transfer an appropriation or any portion thereof within a state agency established, abolished, or otherwise affected by the provisions of this act, or from one such agency to

another, to support the changes in organization or responsibility resulting from or required by the provisions of this act.

15. That any accrued sick leave or annual leave of any employee of the Department of Agriculture and Consumer Services, the Virginia Lottery, or the Virginia Racing Commission who transfers to the Virginia Gaming Commission in accordance with the provisions of this act shall transfer with the employee.

16. That the Virginia Gaming Commission Board (the Board) shall promulgate regulations to implement the provisions of this act by January 1, 2028; however the Board shall present such regulations to the Virginia Gaming Oversight Commission for review prior to adoption. With the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor the public participation guidelines adopted pursuant thereto shall apply to the initial adoption of any regulations pursuant to this act. Prior to adopting any regulations pursuant to this act, the Board shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulations; (ii) the text of the proposed regulations; and (iii) the name, address, email address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for the submittal of public comment. The legislative review provisions of subsections A and B of § 2.2-4014 of the Code of Virginia shall apply to the promulgation or final adoption process for regulations adopted pursuant to this act. The Board shall consider and keep on file all public comments received for any regulations adopted pursuant to this act. The provisions of this enactment shall become effective in due course.

17. That employees of the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, shall be considered employees of the Commonwealth. Employees of the Commission shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 of the Code of Virginia and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Commission shall be employed on such terms and conditions as established by the Virginia Gaming Commission Board (the Board). The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, ethnic or national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or military status. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1 of the Code of Virginia, except as otherwise provided in this enactment.

18. That notwithstanding any other provision of law, the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, shall give preference in hiring to employees of the Department of Agriculture and Consumer Services, the Virginia Lottery, and the Virginia Racing Commission (relevant state agencies). The Commission shall issue a written notice to all persons whose employment at such relevant state agencies will be transferred to the Commission. The date upon which such written notice is issued shall be referred to herein as the "Option Date." In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the relevant state agencies to the Commission, the Commission shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the relevant state agencies will end or be transferred to the Commission. This date shall be stated in the written notice and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2026, without the mutual agreement of the employee and the Commission. No Transition Date shall be set beyond July 1, 2028. Each person whose employment will be transferred to the Commission may, by written request made within 120 days of the Option Date, elect not to become employed by the Commission. Any employee of the relevant state agencies who (i) is not offered the opportunity to transfer to employment by the Commission or (ii) is not offered a position with the Commission for which the employee is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq. of the Code of Virginia). Any employee who accepts employment with the Commission shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.

Notwithstanding any other provision of law to the contrary, any person whose employment is

transferred to the Commission as a result of this act and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 of the Code of Virginia shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Commission as a result of this act and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 of the Code of Virginia shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

Notwithstanding any other provision of law, any person whose employment is transferred to the Commission as a result of this act and who was subjected to a criminal history background check as a condition of employment with any of the relevant state agencies shall not be subject to any provisions of this act regarding a criminal history background check, unless the Commission deems otherwise.

19. That the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, upon becoming operational, shall conduct a review of all technology systems inherited from the Department of Agriculture and Consumer Services, the Virginia Lottery, and the Virginia Racing Commission for the purpose of increasing efficiency in core functions through the reduction of manual processes and standardizing similar processes, such as licensing, auditing, and case management, across the different types of gaming that are overseen and regulated by the Commission.

20. That the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, upon becoming operational, shall conduct a study to evaluate the legal, economic, technological, and public-policy implications of prediction markets. In the course of such study, the Commission shall (i) seek to define prediction markets; (ii) determine how it compares or differs from traditional gambling, derivatives, or financial instruments; (iii) explore how prediction markets are currently regulated under federal law and how state and federal courts have distinguished prediction markets from gambling or financial speculation; (iv) consult with the Office of the Attorney General and other relevant stakeholders on the legal implications of regulating prediction markets at the state level; and (v) conduct any other relevant research deemed necessary by the Commission. The Commission shall complete such study no later than October 1, 2029.

21. That the Virginia Gaming Commission (the Commission), established pursuant to § 29.5-101 of the Code of Virginia, as created by this act, shall notify the Department of Accounts as soon as the Commission is operational as evidenced by the appointment of all members to the Virginia Gaming Commission Board, established pursuant to § 29.5-103 of the Code of Virginia, as created by this act, and the appointment of a Commissioner to the Commission pursuant to § 29.5-102 of the Code of Virginia, as created by this act.

22. That 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 is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.