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HOUSE BILL NO. 590

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 21, 2024)

(Patron Prior to Substitute—Delegate Hayes)

A *BILL to amend and reenact §§ 2.2-3711, as it is currently effective and as it shall become effective, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, and 58.1-4007 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, consisting of sections numbered 58.1-4200 through 58.1-4215; and to repeal § 18.2-334.6 of the Code of Virginia, relating to Virginia Small Business Economic Development Act established; regulation of skill game machines; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, as it is currently effective and as it shall become effective, 18.2-325, 18.2-334, 19.2-389, 37.2-314.2, 58.1-4002, 58.1-4003, 58.1-4006, and 58.1-4007 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.3, by adding a section numbered 18.2-334.7, and by adding in Title 58.1 a chapter numbered 42, consisting of sections numbered 58.1-4200 through 58.1-4215, as follows:

§ 2.2-3711. (Effective until date pursuant to Acts 2023, cc. 756 and 778, cl. 5) 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 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

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60 construed to permit the closure of a meeting merely because an attorney representing the public body is
61 in attendance or is consulted on a matter.

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

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

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

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

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

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

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

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

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

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

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

115 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
116 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
117 trustees of a trust established by one or more local public bodies to invest funds for postemployment
118 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
119 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
120 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
121 holding, or disposition of a security or other ownership interest in an entity, where such security or

122 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
 123 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
 124 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
 125 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
 126 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
 127 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
 128 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
 129 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
 130 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
 131 of information relating to the identity of any investment held, the amount invested, or the present value
 132 of such investment.

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

146 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
 147 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
 148 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
 149 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
 150 proprietary, business-related information pertaining to the operations of the University of Virginia
 151 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
 152 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
 153 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
 154 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
 155 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
 156 Medical School, as the case may be.

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

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

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

174 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 175 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
 176 § 56-484.12, related to the provision of wireless E-911 service.

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

183 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
184 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
185 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
186 responsible public entity concerning such records.

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

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

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

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

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

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

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

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

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

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

223 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
224 § 2.2-3705.6 related to economic development.

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

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

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

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

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

243 45. Discussion or consideration of personal and proprietary information related to the resource
244 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)

245 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
246 that contain information that has been certified for release by the person who is the subject of the
247 information or transformed into a statistical or aggregate form that does not allow identification of the
248 person who supplied, or is the subject of, the information.

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

252 47. Discussion or consideration of grant, loan, or investment application records subject to the
253 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11
254 (§ 2.2-2351 et seq.) of Chapter 22.

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

258 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
259 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
260 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
261 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
262 §§ 15.2-1627.5 and 63.2-1605.

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

267 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
268 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
269 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
270 § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B
271 of § 2.2-2040.

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

275 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the
276 denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or
277 revocation of any license or permit related to casino gaming, and discussion, consideration, or review of
278 matters related to investigations excluded from mandatory disclosure under subdivision 1 of
279 § 2.2-3705.3.

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

284 55. *Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007*
285 *regarding the denial of, revocation of, suspension of, or refusal to renew any license related to skill*
286 *game machines and any discussion, consideration, or review of matters related to investigations*
287 *excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

298 E. This section shall not be construed to (i) require the disclosure of any contract between the
299 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
300 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
301 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
302 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
303 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
304 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
305 of such bonds.

306 § 2.2-3711. (Effective pursuant to Acts 2023, cc. 756 and 778, cl. 5) Closed meetings authorized
307 for certain limited purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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367 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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

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

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

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

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

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

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

401 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
 402 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
 403 trustees of a trust established by one or more local public bodies to invest funds for postemployment
 404 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
 405 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
 406 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
 407 holding, or disposition of a security or other ownership interest in an entity, where such security or
 408 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
 409 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
 410 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
 411 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
 412 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
 413 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
 414 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
 415 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
 416 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
 417 of information relating to the identity of any investment held, the amount invested, or the present value
 418 of such investment.

419 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 420 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
 421 individual child death cases are discussed by a regional or local child fatality review team established
 422 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
 423 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
 424 which individual adult death cases are discussed by the state Adult Fatality Review Team established
 425 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
 426 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
 427 meetings in which individual death cases are discussed by overdose fatality review teams established
 428 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are

429 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
430 meetings in which individual death cases of persons with developmental disabilities are discussed by the
431 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

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

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

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

461 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
462 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
463 § 56-484.12, related to the provision of wireless E-911 service.

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

470 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
471 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
472 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
473 responsible public entity concerning such records.

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

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

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

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

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

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

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

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

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

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

510 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
511 § 2.2-3705.6 related to economic development.

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

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

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

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

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

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

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

539 47. Discussion or consideration of grant, loan, or investment application records subject to the
540 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11
541 (§ 2.2-2351 et seq.) of Chapter 22.

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

545 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
546 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
547 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
548 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
549 §§ 15.2-1627.5 and 63.2-1605.

550 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
551 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the

552 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
553 subdivision 33 of § 2.2-3705.7.

554 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
555 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
556 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
557 § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B
558 of § 2.2-2040.

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

562 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the
563 denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or
564 revocation of any license or permit related to casino gaming, and discussion, consideration, or review of
565 matters related to investigations excluded from mandatory disclosure under subdivision 1 of
566 § 2.2-3705.3.

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

571 55. *Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007*
572 *regarding the denial of, revocation of, suspension of, or refusal to renew any license related to skill*
573 *game machines and any discussion, consideration, or review of matters related to investigations*
574 *excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

585 E. This section shall not be construed to (i) require the disclosure of any contract between the
586 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
587 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
588 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
589 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
590 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
591 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
592 of such bonds.

593 **§ 11-16.3. Exemption; play of authorized skill game machines.**

594 *This chapter shall not apply to the play of skill game machines or related activity that is lawful*
595 *under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising*
596 *from conduct lawful thereunder.*

597 **§ 18.2-325. Definitions.**

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

599 *"Gambling device" includes:*

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

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

612 *Such devices are no less gambling devices if they indicate beforehand the definite result of one or*
613 *more operations but not all the operations. Nor are they any less a gambling device because, apart*

614 from their use or adaptability as such, they may also sell or deliver something of value on a basis other
615 than chance.

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

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

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

629 "Illegal gambling" does not include the playing or offering for play of any skill game machine
630 authorized pursuant to the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.

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

635 3. "Gambling device" includes:

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

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

648 c. Skill games.

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

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

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

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

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

670 **§ 18.2-334. Exception to article; private residences.**

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

674 **§ 18.2-334.7. Exemptions to article; skill game machines.**

675 *Nothing in this article shall be construed to make it illegal to play any skill game machine or*
676 *conduct any related activity that is lawful under Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1.*

677 **§ 19.2-389. Dissemination of criminal history record information.**

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

680 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
681 purposes of the administration of criminal justice and the screening of an employment application or
682 review of employment by a criminal justice agency with respect to its own employees or applicants, and
683 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
684 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
685 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
686 purposes of this subdivision, criminal history record information includes information sent to the Central
687 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
688 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
689 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
690 prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the
691 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

718 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
719 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
720 position of employment whenever, in the interest of public welfare or safety and as authorized in the
721 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
722 with a conviction record would be compatible with the nature of the employment under consideration;

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

730 9. To the extent permitted by federal law or regulation, public service companies as defined in
731 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
732 personal contact with the public or when past criminal conduct of an applicant would be incompatible
733 with the nature of the employment under consideration;

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

736 11. A person requesting a copy of his own criminal history record information as defined in

737 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
738 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
739 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
740 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
741 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
742 Solvers, or Crime Line program as defined in § 15.2-1713.1;

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

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

757 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
758 (§ 58.1-4000 et seq.) and, casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
759 and skill game machines as set forth in Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1, and the
760 Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
761 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

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

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

774 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his
775 designees for individuals who are committed to the custody of or being evaluated by the Commissioner
776 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,
777 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement,
778 evaluation, treatment, or discharge planning;

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

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

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

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

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

795 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
796 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
797 higher education, for the purpose of assessing or intervening with an individual whose behavior may

798 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
799 history record information obtained pursuant to this section or otherwise use any record of an individual
800 beyond the purpose that such disclosure was made to the threat assessment team;

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

807 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
808 determining an individual's fitness for employment, approval as a sponsored residential service provider,
809 permission to enter into a shared living arrangement with a person receiving medical assistance services
810 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
811 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506,
812 37.2-506.1, and 37.2-607;

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

816 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
817 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
818 purpose of determining if any applicant who accepts employment in any direct care position or requests
819 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
820 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
821 under contract with the provider to serve in a direct care position has been convicted of a crime that
822 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
823 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
824 37.2-607;

825 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
826 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
827 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

828 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
829 Committee for Courts of Justice for the purpose of determining if any person being considered for
830 election to any judgeship has been convicted of a crime;

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

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

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

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

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

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

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

860 information to the applicant or its designee;
861 39. The Department of Professional and Occupational Regulation for the purpose of investigating
862 individuals for initial licensure pursuant to § 54.1-2106.1;
863 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
864 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
865 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
866 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
867 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
868 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
869 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
870 43. The Department of Education or its agents or designees for the purpose of screening individuals
871 seeking to enter into a contract with the Department of Education or its agents or designees for the
872 provision of child care services for which child care subsidy payments may be provided;
873 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
874 a juvenile's household when completing a predispositional or postdispositional report required by
875 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
876 45. The State Corporation Commission, for the purpose of screening applicants for insurance
877 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;
878 46. Administrators and board presidents of and applicants for licensure or registration as a child day
879 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
880 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
881 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
882 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
883 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
884 representative, or a federal or state authority or court as may be required to comply with an express
885 requirement of law for such further dissemination; however, nothing in this subdivision shall be
886 construed to prohibit the Superintendent of Public Instruction's representative from issuing written
887 certifications regarding the results of prior background checks in accordance with subsection J of
888 § 22.1-289.035 or § 22.1-289.039;
889 47. The National Center for Missing and Exploited Children for the purpose of screening individuals
890 who are offered or accept employment or will be providing volunteer or contractual services with the
891 National Center for Missing and Exploited Children; and
892 48. Other entities as otherwise provided by law.
893 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
894 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
895 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
896 designated in the order on whom a report has been made under the provisions of this chapter.
897 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
898 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
899 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
900 copy of conviction data covering the person named in the request to the person making the request;
901 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
902 making of such request. A person receiving a copy of his own conviction data may utilize or further
903 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
904 subject, the person making the request shall be furnished at his cost a certification to that effect.
905 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
906 section shall be limited to the purposes for which it was given and may not be disseminated further,
907 except as otherwise provided in subdivision A 46.
908 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
909 history record information for employment or licensing inquiries except as provided by law.
910 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
911 Exchange prior to dissemination of any criminal history record information on offenses required to be
912 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
913 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
914 where time is of the essence and the normal response time of the Exchange would exceed the necessary
915 time period. A criminal justice agency to whom a request has been made for the dissemination of
916 criminal history record information that is required to be reported to the Central Criminal Records
917 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
918 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
919 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
920 E. Criminal history information provided to licensed nursing homes, hospitals and to home care

921 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
922 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

923 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
924 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
925 for any offense specified in § 63.2-1720.

926 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
927 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
928 definition of barrier crime in § 19.2-392.02.

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

938 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
939 information pursuant to the rules of court for obtaining discovery or for review by the court.

940 **§ 37.2-314.2. Problem Gambling Treatment and Support Fund.**

941 A. As used in this section:

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

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

949 B. There is hereby created in the state treasury a special nonreverting fund to be known as the
950 Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund
951 shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to
952 subsection A of § 58.1-4038 ~~and~~, moneys required to be deposited into the Fund pursuant to Chapter 41
953 (§ 58.1-4100 et seq.) of Title 58.1, *and moneys required to be deposited into the Fund pursuant to*
954 *subdivision B 1 of § 58.1-4212* shall be paid into the state treasury and credited to the Fund. Interest
955 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
956 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
957 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing
958 counseling and other support services for compulsive and problem gamblers, (ii) developing and
959 implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing
960 grants to support organizations that provide assistance to compulsive and problem gamblers.
961 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
962 by the Comptroller upon written request signed by the Commissioner.

963 **§ 58.1-4002. Definitions.**

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

965 "Board" means the Virginia Lottery Board established by this chapter.

966 "Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines,
967 roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or
968 pull tabs and any other activity that is authorized by the Board as a wagering game or device under
969 Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino
970 gaming.

971 "Department" means the independent agency responsible for the administration of the Virginia
972 Lottery pursuant to this article and *the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et*
973 *seq.), casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.), and skill game machines pursuant to*
974 *Chapter 42 (§ 58.1-4200 et seq.).*

975 "Director" means the Director of the Virginia Lottery.

976 "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this
977 ~~chapter~~ *article.*

978 "On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a
979 casino gaming establishment using a computer network of both federal and nonfederal interoperable
980 packet-switched data networks through which the casino gaming operator may offer casino gaming to
981 individuals who have established an on-premises mobile casino gaming account with the casino gaming
982 operator and who are physically present on the premises of the casino gaming establishment, as

983 authorized by regulations promulgated by the Board.
 984 "Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.
 985 "Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery
 986 tickets on behalf of individuals located within or outside of the Commonwealth and delivering or
 987 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
 988 delivery service.
 989 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1
 990 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
 991 subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the
 992 procedures set forth by the Board.
 993 **§ 58.1-4003. Virginia Lottery established.**
 994 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
 995 other provision of law, there is hereby established as an independent agency of the Commonwealth,
 996 exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery, which
 997 shall include a Director and a the Virginia Lottery Board for the ~~purpose~~ purposes of operating a state
 998 lottery and regulating sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), casino gaming pursuant
 999 to Chapter 41 (§ 58.1-4100 et seq.), and skill game machines pursuant to Chapter 42 (§ 58.1-4200 et
 1000 seq.).
 1001 **§ 58.1-4006. Powers of the Director.**
 1002 A. The Director shall supervise and administer:
 1003 1. The operation of the lottery in accordance with the provisions of this chapter and with the rules
 1004 and regulations promulgated ~~hereunder~~ pursuant to this chapter; and
 1005 2. The regulation of sports betting in accordance with Article 2 (§ 58.1-4030 et seq.) and with the
 1006 rules and regulations promulgated pursuant to this chapter;
 1007 3. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.) and with the
 1008 rules and regulations promulgated pursuant to that chapter; and
 1009 4. The regulation of skill game machines in accordance with Chapter 42 (§ 58.1-4200 et seq.) and
 1010 with the rules and regulations promulgated pursuant to that chapter.
 1011 B. The Director shall also:
 1012 1. Employ such deputy directors, professional, technical, and clerical assistants, and other employees
 1013 as may be required to carry out the functions and duties of the Department.
 1014 2. Act as secretary and executive officer of the Board.
 1015 3. Require bond or other surety satisfactory to the Director from licensed agents as provided in
 1016 subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery
 1017 funds, in such amount as provided in the rules and regulations of the Board. The Director may also
 1018 require bond from other employees as he deems necessary.
 1019 4. Confer regularly, but not less than four times each year, with the Board on the operation and
 1020 administration of the lottery, and the regulation of *sports betting*, casino gaming, and *skill game*
 1021 *machines*; make available for inspection by the Board, upon request, all books, records, files, and other
 1022 information and documents of the Department; and advise the Board and recommend such matters as he
 1023 deems necessary and advisable to improve the operation and administration of the lottery and the
 1024 regulation of *sports betting*, casino gaming, and *skill game machines*.
 1025 5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and
 1026 regulations adopted ~~hereunder~~ pursuant to this chapter.
 1027 6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41
 1028 (§ 58.1-4100 et seq.).
 1029 7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a
 1030 license or permit, whose conduct or reputation is such that his presence may, in the opinion of the
 1031 Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly
 1032 gaming operations.
 1033 8. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter
 1034 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for
 1035 appropriate action.
 1036 9. Inspect and investigate, and have free access to, the offices, facilities, or other places of business
 1037 of any licensee or permit holder and may compel the production of any of the books, documents,
 1038 records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with
 1039 Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.
 1040 10. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to
 1041 file with the Department such information as shall appear to the Director to be necessary for the
 1042 performance of the Department's functions, including financial statements and information relative to
 1043 principals and all others with any pecuniary interest in such person.

1044 11. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings
 1045 commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100
 1046 et seq.) or regulations promulgated by the Board.

1047 12. Enter into arrangements with any foreign or domestic governmental agency for the purposes of
 1048 exchanging information or performing any other act to better ensure the proper conduct of casino
 1049 gaming operations or the efficient conduct of the Director's duties.

1050 13. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the
 1051 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the
 1052 Director shall not be assigned by the holder thereof except by specific approval of the Director.

1053 14. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery
 1054 revenues, prize disbursements and other expenses for the preceding month.

1055 15. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
 1056 Committee on Finance and Appropriations, House Committee on Finance, and House Committee on
 1057 Appropriations the total lottery revenues, prize disbursements, and other expenses for the preceding
 1058 month and make an annual report, which shall include a full and complete statement of lottery revenues,
 1059 prize disbursements, and other expenses, as well as a separate financial statement of the expenses
 1060 incurred in the regulation of casino gaming operations as defined in § 58.1-4100, to the Governor and
 1061 the General Assembly. Such annual report shall also include such recommendations for changes in this
 1062 chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

1063 16. Report immediately to the Governor and the General Assembly any matters that require
 1064 immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this
 1065 chapter ~~and~~, Chapter 41 (§ 58.1-4100 et seq.), *and Chapter 42 (§ 58.1-4200 et seq.)*, or the rules and
 1066 regulations adopted ~~hereunder~~ *pursuant to the provisions of such chapters*, or to rectify undesirable
 1067 conditions in connection with the administration or operation of the lottery.

1068 17. Notify prize winners and appropriate state and federal agencies of the payment of prizes in
 1069 excess of \$600 in the manner required by the lottery rules and regulations.

1070 18. Provide for the withholding of the applicable amount of state and federal income tax of persons
 1071 claiming a prize for a winning ticket in excess of \$5,001.

1072 19. Participate in the Problem Gambling Treatment and Support Advisory Committee established
 1073 pursuant to § 37.2-304 by the Department of Behavioral Health and Developmental Services to enable
 1074 collaboration among prevention and treatment providers and operators of legal gaming in the
 1075 Commonwealth on efforts to reduce the negative effects of problem gambling.

1076 C. The Director and the director of security or investigators appointed by the Director shall be vested
 1077 with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department
 1078 and to investigate violations of the statutes and regulations that the Director is required to enforce.

1079 D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales
 1080 agents that he determines will be cost effective and support increased sales of lottery products.

1081 **§ 58.1-4007. Powers of the Board.**

1082 A. The Board shall have the power to adopt regulations governing the establishment and operation of
 1083 a lottery pursuant to this article ~~and~~, sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), *casino*
 1084 *gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.)*, *and skill game machines pursuant to Chapter 42*
 1085 *(§ 58.1-4200 et seq.)*. The regulations governing the establishment and operation of the lottery ~~and~~,
 1086 sports betting, *casino gaming, and skill game machines* shall be promulgated by the Board after
 1087 consultation with the Director. Such regulations shall be in accordance with the Administrative Process
 1088 Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the
 1089 efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, *casino*
 1090 *gaming, and skill game machines* and for the convenience of the purchasers of tickets or shares, the
 1091 holders of winning tickets or shares, ~~and~~ sports bettors, *casino gaming patrons, and the players of skill*
 1092 *game machines*. The regulations, which may be amended, repealed, or supplemented as necessary, shall
 1093 include the following:

1094 1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

1095 2. The price or prices of tickets or shares in the lottery.

1096 3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the
 1097 public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes
 1098 and (ii) returned to the Commonwealth as net revenues.

1099 4. The manner of selecting the winning tickets or shares.

1100 5. The manner of payment of prizes to the holders of winning tickets or shares.

1101 6. The frequency of the drawings or selections of winning tickets or shares without limitation.

1102 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
 1103 sold.

1104 8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the
 1105 Internet.

1106 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

1107 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
1108 promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A
1109 licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at
1110 the agent's place of business so long as the employee is supervised in the selling or vending of tickets
1111 by the manager or supervisor in charge at the location where the tickets are being sold. Employment of
1112 such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

1113 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
1114 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
1115 of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to
1116 approve temporary bonus or incentive programs for payments to licensed sales agents.

1117 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
1118 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.

1119 13. Such other matters necessary or desirable for the efficient and economical operation and
1120 administration of the lottery.

1121 14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such
1122 regulations, the Board shall establish a consumer protection program and publish a consumer protection
1123 bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined
1124 in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and
1125 any other consumer protection measure the Board determines to be reasonable.

1126 15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.

1127 The Department shall not be subject to the provisions of ~~Chapter 43~~ *the Virginia Public Procurement*
1128 *Act* (§ 2.2-4300 et seq.) of ~~Title 2.2~~; however, the Board shall promulgate regulations, after consultation
1129 with the Director, relative to departmental procurement which include standards of ethics for
1130 procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of ~~Chapter 43~~ of ~~Title 2.2~~
1131 *the Virginia Public Procurement Act* and which ensure that departmental procurement will be based on
1132 competitive principles.

1133 The Board shall have the power to advise and recommend, but shall have no power to veto or
1134 modify administrative decisions of the Director. However, the Board shall have the power to accept,
1135 modify, or reject any revenue projections before such projections are forwarded to the Governor.

1136 B. The Board shall carry on a continuous study and investigation of the lottery and, sports betting,
1137 *casino gaming, and skill game machines* throughout the Commonwealth to:

1138 1. Ascertain any defects of this chapter or the regulations issued ~~hereunder~~ *which pursuant to this*
1139 *chapter that cause abuses in the administration and operation of the lottery and, sports betting and,*
1140 *casino gaming, or skill game machines or any evasions of such provisions.*

1141 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations
1142 promulgated ~~hereunder~~ *pursuant to this chapter* to prevent such abuses and evasions.

1143 3. Guard against the use of this chapter and the regulations promulgated ~~hereunder~~ *pursuant to this*
1144 *chapter as a subterfuge for organized crime and illegal gambling.*

1145 4. Ensure that this law and the regulations of the Board are in such form and are so administered as
1146 to serve the true purpose of this chapter.

1147 C. The Board shall make a continuous study and investigation of (i) the operation and the
1148 administration of similar laws that may be in effect in other states or countries; (ii) any literature on the
1149 subject that may be published or available; (iii) any federal laws that may affect the operation of the
1150 lottery and, sports betting, *casino gaming, and skill game machines*; and (iv) the reaction of Virginia
1151 citizens to the potential features of the lottery and, sports betting, *casino gaming, and skill game*
1152 *machines* with a view to recommending or effecting changes that will serve the purpose of this chapter.

1153 D. The Board shall hear and decide an appeal of any ~~denial~~:

1154 1. *Denial* by the Director of the licensing or revocation of a license of a lottery agent pursuant to
1155 subdivision A 10 of this section and subdivision B 5 of § 58.1-4006. ~~The Board shall hear and decide~~
1156 ~~an appeal of any penalty;~~

1157 2. *Penalty, denial* of a permit or renewal, or suspension or revocation of a permit imposed by the
1158 Director pursuant to Article 2 (§ 58.1-4030 et seq.);

1159 3. *Penalty, denial of a permit or license or renewal, or suspension or revocation of a permit or*
1160 *license imposed by the Director pursuant to Chapter 41 (§ 58.1-4100 et seq.); and*

1161 4. *Penalty, denial by the Director of a license or renewal, or suspension or revocation of a license*
1162 *imposed by the Director pursuant to Chapter 42 (§ 58.1-4200 et seq.).*

1163 E. The Board shall have the authority to initiate procedures for the planning, acquisition, and
1164 construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3
1165 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

1166 F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted

1167 from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is
 1168 reasonable and customary in the sports betting industry.

1169 **CHAPTER 42.**

1170 **VIRGINIA SMALL BUSINESS ECONOMIC DEVELOPMENT ACT.**

1171 **§ 58.1-4200. Definitions.**

1172 *As used in this chapter, unless the context requires a different meaning:*

1173 *"ABC retail licensee" means a person who possesses a valid retail license issued by the Board of*
 1174 *Directors of the Virginia Alcoholic Beverage Control Authority and who is in good standing.*

1175 *"Board" means the Virginia Lottery Board.*

1176 *"Department" means the Virginia Department of Taxation.*

1177 *"Distributor" means a person registered with the Board that sells, leases, offers, or provides and*
 1178 *distributes skill game machines to an operator for use or play in the Commonwealth.*

1179 *"Establishment" means a person registered with the Board that permits an operator to place and*
 1180 *operate skill game machines on the establishment's premises pursuant to this chapter.*

1181 *"Gross revenue" means all revenue generated from the play of skill game machines minus prizes*
 1182 *paid out to players.*

1183 *"Inducement" means (i) consideration paid, directly or indirectly, from a distributor or operator, or*
 1184 *another person on behalf of a distributor or operator, to an establishment, or an employee of the*
 1185 *establishment, directly or indirectly, as an enticement to solicit or maintain the establishment's business*
 1186 *or (ii) cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of skill*
 1187 *game revenue, or other contribution or payment that offsets an establishment's operational costs, or as*
 1188 *otherwise determined by the Board.*

1189 *"Operator" means a person registered with the Board to operate skill game machines by (i)*
 1190 *purchasing or leasing skill game machines from a registered distributor, (ii) providing skill game*
 1191 *machines to registered establishments, (iii) ensuring payment of prizes to players and collection of skill*
 1192 *game machine revenue, and (iv) providing onsite collection of skill game machine data reporting as*
 1193 *required by this chapter.*

1194 *"Person" means an individual, partnership, joint venture, association, limited liability company, stock*
 1195 *corporation, or nonstock corporation and includes any person that directly or indirectly controls or is*
 1196 *under common control with another person.*

1197 *"Single play" means the period beginning when a player activates and pays for the interactive*
 1198 *gameplay function of a skill game and ending at the time when the gameplay function or series of free*
 1199 *subgames thereunder will not continue without payment by the player of additional consideration.*

1200 *"Skill game" or "skill game machine" means an electronic, computerized, or mechanical contrivance,*
 1201 *terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or*
 1202 *similar object to operate, activate, or play a game, the outcome of which is determined by the*
 1203 *predominant skill of the player and that may deliver or entitle the person playing or operating the*
 1204 *device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic*
 1205 *credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the*
 1206 *device or manually. "Skill game" or "skill game machine" includes (i) any device that contains a meter*
 1207 *or measurement device that records the number of free games or portions of games that are rewarded*
 1208 *and (ii) any device designed or adapted to enable a person using the device to increase the chances of*
 1209 *winning free games or portions of games by paying more than the amount that is ordinarily required to*
 1210 *play the game. Skill game machines shall be programmed so that the maximum consideration to play is*
 1211 *\$5 and the maximum winnings per a single play does not exceed \$5,000.*

1212 *"Truck stop" means an establishment that (i) is equipped with diesel islands used for fueling*
 1213 *commercial motor vehicles; (ii) has sold, on average, at least 50,000 gallons of diesel or biodiesel fuel*
 1214 *each month for the previous 12 months, or is projected to sell an average of at least 50,000 gallons of*
 1215 *diesel or biodiesel fuel each month for the next 12 months; (iii) has parking spaces dedicated to*
 1216 *commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than three acres*
 1217 *of land that the establishment owns or leases.*

1218 **§ 58.1-4201. Powers and duties of the Board related to skill game machines; penalty.**

1219 *A. The Board shall promulgate regulations governing the ownership, placement, use, and operation*
 1220 *of skill game machines and any associated equipment.*

1221 *B. The Board shall designate three nationally recognized and accredited laboratories to conduct the*
 1222 *requisite skill game machine equipment and software evaluation and approval pursuant to the*
 1223 *requirements in § 58.1-4208.*

1224 *C. The Board shall conduct a background investigation, to include a criminal history records search,*
 1225 *which may include a fingerprint-based national criminal history records search, on each applicant for*
 1226 *registration. The Board may refuse to issue a registration to any person or entity that has engaged in*
 1227 *conduct prejudicial to public confidence in the Board or been (i) convicted of a crime involving moral*
 1228 *turpitude, (ii) convicted of any form of illegal gambling, or (iii) convicted of a felony. The Board may*

1229 refuse to grant a registration or may suspend, revoke, or refuse to renew a registration issued pursuant
 1230 to this chapter to a corporation, limited liability company, or partnership if the Board determines that
 1231 any officer, director, manager, or general or limited partner has engaged in conduct prejudicial to
 1232 public confidence in the Board or been (a) convicted of a crime involving moral turpitude, (b) convicted
 1233 of any form of illegal gambling, or (c) convicted of a felony. Any person that knowingly falsifies,
 1234 conceals, or misrepresents a material fact or knowingly makes a false, fictitious, or fraudulent statement
 1235 or representation in any application for registration to the Board is guilty of a Class 1 misdemeanor.

1236 D. The Board shall require that each distributor submit a monthly report detailing the following:

1237 1. The total number of skill game machines provided for play in Virginia by the operator;

1238 2. The address of each location where skill game machines are provided for play by the operator;

1239 3. The total number of skill game machines provided for play by the operator at each respective
 1240 location;

1241 4. The total amount wagered during the previous month on each skill game machine provided for
 1242 play by the operator at each establishment where the skill game machine was provided; and

1243 5. The total amount of prizes or winnings awarded during the previous month on each skill game
 1244 machine provided for play by the operator at each establishment where the skill game machine was
 1245 provided.

1246 E. The Board shall issue decals for each skill game machine registered pursuant to this chapter
 1247 bearing the seal of the Commonwealth that include the words "Certified Skill Game Machine" and bear
 1248 the effective dates of registration. Such decals shall be affixed by the operator on each registered skill
 1249 game machine provided to each establishment for play.

1250 F. Whenever it appears to the Board that any person has violated any provision of this chapter, the
 1251 Director may apply to the appropriate circuit court for an injunction against such person. Any order
 1252 granting or refusing such injunction shall be subject to appeal as in other cases in equity.

1253 G. Whenever the Board has reasonable cause to believe that a violation of this chapter may have
 1254 occurred, the Board, upon its own motion or upon complaint of any person, may investigate any
 1255 distributor, operator, or establishment to determine whether such distributor, operator, or establishment
 1256 has violated the provisions of this chapter.

1257 **§ 58.1-4202. Registration of distributors, operators, and establishments required; certification of**
 1258 **skill game machines required; recordkeeping; application; application fees.**

1259 A. No operator shall place any skill game machine in the Commonwealth without first being
 1260 registered with the Board. No distributor shall sell, lease, offer, or provide any skill game machine to
 1261 an operator for use or play in the Commonwealth without first being registered with the Board. No
 1262 establishment shall offer any skill game machine for play without first being registered with the Board.
 1263 Applications for registration shall be on forms prescribed by the Board. The Board shall require each
 1264 distributor that submits an application pursuant to this section to certify that any skill game machine
 1265 such distributor seeks to sell, lease, offer, or provide for use or play in the Commonwealth has received
 1266 proper certification from an independent testing laboratory certifying that such skill game machine and
 1267 any associated equipment aligns with the definition of "skill game" in § 58.1-4200.

1268 B. Every registration submitted pursuant to this chapter shall be accompanied by a nonrefundable
 1269 fee as follows:

1270 1. For initial registration:

1271 a. Distributor: \$500,000;

1272 b. Operator: \$100,000; and

1273 c. Establishment: \$250.

1274 2. For registration renewal:

1275 a. Distributor: \$250,000;

1276 b. Operator: \$10,000; and

1277 c. Establishment: \$100.

1278 C. Each application for registration as a distributor shall be accompanied by a bond with surety for
 1279 \$1 million to be filed with the Board. Each application for registration as an operator shall be
 1280 accompanied by a bond with surety for \$250,000 to be filed with the Board. Such bonds shall be for the
 1281 purpose of covering any indebtedness by such registrants to the Board.

1282 D. No person registered as a distributor shall be eligible to register as an operator or an
 1283 establishment or have any interest in any person registered as an operator or an establishment pursuant
 1284 to the provisions of this chapter.

1285 No person registered as an operator shall be eligible to register as a distributor or an establishment
 1286 or have any interest in any person registered as a distributor or establishment pursuant to the
 1287 provisions of this chapter.

1288 No person registered as an establishment shall be eligible to register as an operator or a distributor
 1289 or have any interest in any person registered as an operator or a distributor pursuant to the provisions

1290 of this chapter.

1291 E. Each distributor and operator registered pursuant to this chapter shall maintain complete,
1292 accurate, and separate records for a period of two years of all funds expended for play in each skill
1293 game machine and all game outcomes, including information sufficient to ensure the collection of the
1294 tax required by § 58.1-4212. The records shall be available for inspection and copying by the Board
1295 during reasonable hours. Each skill game machine shall be made available for the Board to conduct
1296 periodic audits.

1297 **§ 58.1-4203. Suspension or revocation of registration; civil penalty.**

1298 A. After a hearing with 15 days' notice, the Board may suspend or revoke any registration or impose
1299 on such distributor, operator, or establishment a civil penalty of not more than \$25,000 for each
1300 violation of this chapter, not to exceed \$100,000, in any case where a violation of this chapter has been
1301 shown by a preponderance of the evidence.

1302 B. If any such registration is suspended or revoked, the Board shall state its reasons for doing so,
1303 which shall be entered of record. Such action shall be final unless appealed in accordance with
1304 § 58.1-4204. Suspension or revocation of a registration issued by the Board for any violation shall not
1305 preclude civil liability for such violation.

1306 C. All civil penalties shall be paid into the Virginia Small Business Economic Development Fund
1307 established in § 58.1-4206.

1308 **§ 58.1-4204. Hearing and appeal.**

1309 Any person aggrieved by a denial of the Board to issue a registration, the suspension or revocation
1310 of a registration, the imposition of any fine or civil penalty, or any other action of the Board may seek
1311 review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act
1312 in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5
1313 of the Administrative Process Act.

1314 **§ 58.1-4205. Registration not endorsement.**

1315 No registered operator shall use or exploit the fact of registration pursuant to this chapter so as to
1316 lead the public to believe that such registration in any manner constitutes an endorsement or approval
1317 by the Commonwealth.

1318 **§ 58.1-4206. Virginia Small Business Economic Development Fund.**

1319 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
1320 Small Business Economic Development Fund, referred to in this section as "the Fund." The Fund shall
1321 be established on the books of the Comptroller. All fees, charges, and civil penalties collected by the
1322 Board as provided in this chapter shall be paid into the state treasury and credited to the Fund. Interest
1323 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
1324 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
1325 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of financing the
1326 administration and operation of skill game machines pursuant to the provisions of this chapter.
1327 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
1328 by the Comptroller upon written request signed by the Director.

1329 **§ 58.1-4207. PreK-12 Priority Fund.**

1330 There is hereby created in the state treasury a special permanent, nonreverting, interest-bearing fund
1331 to be known as the PreK-12 Priority Fund, referred to in this section as "the Fund." The Fund shall be
1332 established on the books of the Comptroller. The Fund shall consist of (i) any gross revenue tax
1333 distributed pursuant to subdivision B 6 of § 58.1-4212; (ii) any other moneys appropriated to it by the
1334 General Assembly; and (iii) such other sums as may be made available to it from any other source,
1335 public or private, all of which shall be credited to the Fund. Any moneys remaining in the Fund,
1336 including interest thereon, at the end of each fiscal year shall remain in the Fund and shall not revert
1337 to the general fund. All amounts credited to the Fund shall be used solely for public education purposes
1338 in the Commonwealth in accordance with the general appropriation act. Expenditures and disbursements
1339 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
1340 request signed by the Director.

1341 **§ 58.1-4208. Software testing required; submission to Board.**

1342 No skill game machine or associated equipment may be sold, leased, or used in the operation of skill
1343 game machines until an identical machine containing identical software has been evaluated and
1344 approved by a testing laboratory that has been formally recognized by the Board to uphold established
1345 standards of integrity in accordance with subsection B of § 58.1-4201.

1346 **§ 58.1-4209. Limits on number of skill game machines.**

1347 A. No operator shall locate more than three skill game machines in any ABC retail licensee or more
1348 than seven skill game machines in any truck stop.

1349 B. The aggregate number of skill game machines in the Commonwealth shall not exceed 15,000.

1350 **§ 58.1-4210. Restriction on age of player; attachment of notice to skill game machine; penalty.**

1351 A. No person younger than 21 years of age shall be eligible to operate a skill game machine

1352 regulated pursuant to this chapter. A distributor shall adhere to the front of all skill game machines a
 1353 notice in 16-point Times New Roman bold font the following notice: "It is unlawful for any person
 1354 under the age of 21 to play this game."

1355 B. No establishment registered with the Board shall knowingly allow any person younger than 21
 1356 years of age to play any skill game machine or redeem any winnings from the operation of a skill game
 1357 machine. Any person convicted of violating this section is guilty of a Class 1 misdemeanor.

1358 **§ 58.1-4211. Inducement prohibited.**

1359 No distributor or operator shall offer to or otherwise provide any inducement to any establishment.

1360 **§ 58.1-4212. Tax on gross revenue; distribution of gross and net revenue.**

1361 A. Distributors shall remit to the Department a monthly tax equal to 22 percent of the gross revenue
 1362 for each skill game machine that such distributor provided for play during the previous month.

1363 B. The Department shall allocate the gross revenue tax collected pursuant to subsection A as
 1364 follows:

1365 1. Two percent to the Problem Gambling Treatment and Support Fund established pursuant to
 1366 § 37.2-314.2;

1367 2. Six percent to the Department to cover the costs incurred in administering the provisions of this
 1368 section and, of the amounts remaining after such allocation to the Department, to the Board for the
 1369 purposes of implementing this chapter;

1370 3. Fifteen percent to the Department for distribution to the localities in which skill game machines
 1371 are located;

1372 4. One percent to the law-enforcement agencies that have primary law-enforcement responsibilities in
 1373 any locality in which skill game machines are located;

1374 5. One percent to the Department of State Police to be used by the Office of the Gaming
 1375 Enforcement Coordinator established pursuant to § 52-54; and

1376 6. Seventy-five percent to the PreK-12 Priority Fund established pursuant to § 58.1-4207.

1377 C. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days
 1378 after such funds are collected.

1379 **§ 58.1-4213. Limited disclosure of information permitted.**

1380 Notwithstanding the provisions of § 58.1-3, the Department shall be permitted to disclose information
 1381 to the Board regarding the tax remitted by any distributor pursuant to this chapter.

1382 **§ 58.1-4214. Seizure of unlawful skill game machines; civil penalties.**

1383 A. In addition to the penalties provided for in § 58.1-4203, any person or employee of such person
 1384 who knowingly violates any provision of this chapter shall be liable for a civil penalty of not more than
 1385 \$25,000 for each such violation. Such amount shall be recovered in a civil action brought by the Board
 1386 and paid into the Virginia Small Business Economic Development Fund established in § 58.1-4206.

1387 B. In the event that a law-enforcement agency or the Board makes a determination that, other than
 1388 as expressly provided for in this chapter or otherwise allowed by law, any other skill game machine is
 1389 placed, exists, or is in operation in any establishment in violation of this chapter or the laws of the
 1390 Commonwealth, including the operation of more than the maximum number of skill game machines
 1391 authorized pursuant to § 58.1-4209, the law-enforcement agency or the Board may seize any such device
 1392 pursuant to § 18.2-331.1, and the distributor, operator, or establishment shall be subject to a civil
 1393 penalty of not less than \$25,000 nor more than \$100,000 per device.

1394 **§ 58.1-4215. Skill game machines operated pursuant to this chapter not illegal gambling.**

1395 Nothing contained in Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 shall be applicable to a
 1396 skill game machine operated in accordance with this chapter. The award of any prize money for the
 1397 operation of any skill game machine shall not be deemed to be part of any gaming contract within the
 1398 purview of § 11-14.

1399 2. That, by January 1, 2026, the Virginia Lottery Board (the Board) shall adopt regulations
 1400 necessary to implement the provisions of this act. The Board's initial adoption of such regulations
 1401 shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia),
 1402 except that the Board shall provide an opportunity for public comment on the regulations prior to
 1403 adoption. The Board shall certify in writing to the Virginia Code Commission the date of final
 1404 adoption of such regulations.

1405 3. That, notwithstanding the provisions of the first enactment of this act to the contrary, until the
 1406 Virginia Lottery Board (the Board) adopts the regulations necessary to implement the provisions
 1407 of this act pursuant to the second enactment of this act, the provisions of the first enactment of
 1408 this act shall be administered by the Virginia Alcoholic Beverage Control Authority (the
 1409 Authority), which may issue a provisional registration to any entity that is duly licensed or
 1410 registered to engage in the distribution, operation, or hosting of any skill game machine in another
 1411 state on July 1, 2024. During the Authority's administration of such provisions, the Authority shall
 1412 be vested with all powers and duties of the Board that are necessary for such administration of

1413 the provisions of the first enactment of this act. The Authority shall not be required to adopt
1414 regulations but shall establish procedures for the issuance and administration of any provisional
1415 registration that are consistent with the provisions of Chapter 42 (§ 58.1-4200 et seq.) of Title 58.1
1416 of the Code of Virginia, as created by the first enactment of this act. Any valid and active
1417 provisional registrations issued by the Authority pursuant to this enactment shall remain valid
1418 until their expiration date and shall be considered to have been issued by the Board. Distributing,
1419 operating, or hosting any skill game machine at any time between July 1, 2024, and the date upon
1420 which the regulations necessary to implement the provisions of this act are adopted by the Board
1421 pursuant to the second enactment of this act without obtaining a provisional registration from the
1422 Authority pursuant to this enactment may permanently disqualify a person from obtaining a
1423 registration from the Board pursuant to the first enactment of this act. Any such disqualifications
1424 shall be within the sole discretion of the Board.

1425 4. That, notwithstanding the provisions of § 58.1-3 of the Code of Virginia, the Department of
1426 Taxation shall disclose information to the Virginia Lottery Board (the Board) and to the Virginia
1427 Alcoholic Beverage Control Authority until the Board adopts the regulations necessary to
1428 implement the provisions of this act pursuant to the second enactment of this act regarding the tax
1429 remitted by any distributor pursuant to § 58.1-4212 of the Code of Virginia, as created by this act.
1430 5. That § 18.2-334.6 of the Code of Virginia is repealed.