

VIRGINIA

TITLE 2.1. ADMINISTRATION OF THE GOVERNMENT GENERALLY

CHAPTER 1. ADMINISTRATIVE DEPARTMENTS GENERALLY

§ 2.1-1.5

Entities not subject to standard nomenclature

The following entities are not subject to the provisions of §2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.

Medical College of Virginia Hospitals Authority.

Richmond Eye and Ear Hospital Authority.

Small Business Financing Authority.

Virginia Agriculture Development Authority.

Virginia College Building Authority.

Virginia Economic Development Partnership.

Virginia Housing Development Authority.

Virginia Information Providers Network Authority.

Virginia Innovative Technology Authority.

Virginia Port Authority.

Virginia Public Building Authority.

Virginia Public School Authority.

Virginia Resources Authority.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.

Board of Commissioners, Virginia Port Authority.

Board of Directors, Assistive Technology Loan Fund Authority.

Board of Directors, Medical College of Virginia Hospitals Authority.

Board of Directors, Richmond Eye and Ear Hospital Authority.

Board of Directors, Small Business Financing Authority.

Board of Directors, Virginia Economic Development Partnership.

Board of Directors, Virginia Innovative Technology Authority.

Board of Directors, Virginia Resources Authority.

Board of Regents, Gunston Hall Plantation.

Board of Regents, James Monroe Memorial Law Office and Library.

Board of Trustees, Family and Children's Trust Fund.

Board of Trustees, Frontier Culture Museum of Virginia.

Board of Trustees, Jamestown-Yorktown Foundation.

Board of Trustees, Miller School of Albemarle.

Board of Trustees, Rural Virginia Development Foundation.

Board of Trustees, The Science Museum of Virginia.

Board of Trustees, Virginia Museum of Fine Arts.

Board of Trustees, Virginia Museum of Natural History.

Board of Trustees, Virginia Outdoor Foundation.

Board of Visitors, Christopher Newport University.

Board of Visitors, The College of William and Mary in Virginia.

Board of Visitors, George Mason University.

Board of Visitors, Gunston Hall Plantation.

Board of Visitors, James Madison University.

Board of Visitors, Longwood College.

Board of Visitors, Mary Washington College.

Board of Visitors to Mount Vernon.

Board of Visitors, Norfolk State University.

Board of Visitors, Old Dominion University.

Board of Visitors, Radford University.

Board of Visitors, University of Virginia.

Board of Visitors, Virginia Commonwealth University.

Board of Visitors, Virginia Military Institute.

Board of Visitors, Virginia Polytechnic Institute and State University.

Board of Visitors, Virginia State University.

Commonwealth Health Research Board.

Governing Board, Virginia College Building Authority.

Governing Board, Virginia Public School Authority.

Library Board, The Library of Virginia.

Motor Vehicle Dealer Board.

State Board for Community Colleges, Virginia Community College System.

Virginia-Israel Advisory Board.

(Effective until July 1, 2002) Wireless E-911 Service Board.

Commissions

Advisory Commission on the Virginia Schools for the Deaf and the Blind.

Alexandria Historical Restoration and Preservation Commission.

Charitable Gaming Commission.

Chesapeake Bay Bridge and Tunnel Commission.

Hampton Roads Sanitation District Commission. Districts

Chesapeake Bay Bridge and Tunnel District.

Hampton Roads Sanitation District. Educational Institutions

Christopher Newport University.

College of William and Mary in Virginia.

Frontier Culture Museum of Virginia.

George Mason University.

James Madison University.

Jamestown-Yorktown Foundation.

Longwood College.

Mary Washington College.

Miller School of Albemarle.

Norfolk State University.

Old Dominion University.

Radford University.

The Science Museum of Virginia.

University of Virginia.

Virginia Commonwealth University.

Virginia Community College System.

Virginia Military Institute.

Virginia Museum of Fine Arts.

Virginia Polytechnic Institute and State University.

The Library of Virginia.

Virginia State University. Foundations

Chippokes Plantation Farm Foundation.

Rural Virginia Development Foundation.

Virginia Arts Foundation.

Virginia Conservation and Recreation Foundation.

Virginia Historic Preservation Foundation.

Virginia Outdoor Foundation. Museum

Virginia Museum of Natural History. Partnership

A. L. Philpott Manufacturing Extension Partnership. Plantation

Gunston Hall Plantation.

§ 2.1-1.9

Commissions

Notwithstanding the definition for "commission" as provided in §2.1-1.2, the following entities shall be referred to as commissions:

Advisory Commission on the Virginia Schools for the Deaf and the Blind

Charitable Gaming Commission

Commission on Local Government

Marine Resources Commission

Milk Commission

Virginia Commission for the Arts

Virginia Employment Commission.

§ 2.1-20.4

Bodies receiving compensation

Notwithstanding any other provision of law, members of the commissions, boards, committees, councils and other similar bodies listed below, and members of any other board, committee, council, or similar body who are appointed at the state level, shall receive compensation from state funds pursuant to §2.1-20.3:

Accountancy, Board for

Agriculture and Consumer Services, Board of

Air Pollution Control Board, State

Airports Authority, Virginia

Apprenticeship Council

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for

Athletic Board, Virginia

Auctioneers Board

Audiology and Speech-Language Pathology, Board of

Aviation Board, Virginia

Barbers, Board for

Branch Pilots, Board for

Building Code Technical Review Board, State

Charitable Gaming Commission

Chesapeake Bay Local Assistance Board

Coal Mining Examiners, Board of

College Building Authority

Commonwealth Competition Council

Commonwealth Transportation Board

Conservation and Development of Public Beaches, Board on

Conservation and Recreation, Board of

Contractors, Board for

Correctional Education, Board of

Corrections, Board of

Cosmetology, Board for

Criminal Justice Services Board

Deaf and Hard-of-Hearing, Advisory Board for the

Dentistry, Board of

Education, State Board of

Education Loan Authority, Virginia - Board of Directors

Elections, State Board of

Environment, Council on the

Fire Services Board, Virginia

Funeral Directors and Embalmers, Board of

Game and Inland Fisheries, Board of

Geology, Board for

Health, State Board of

Health Professions, Board of

Hearing Aid Specialists, Board for

Higher Education, State Council of

Historic Resources, Board of

Housing and Community Development, Board of

Information Management, Council on

Juvenile Justice, State Board of

Marine Resources Commission

Medical Assistance Services, Board of

Medical Complaint Investigation Committee

Medicine, Board of

Mental Health, Mental Retardation and Substance Abuse Services Board, State

Milk Commission

Mineral Mining Examiners, Board of

Motor Vehicle Dealer Board

Nursing, Board of

Nursing Home Administrators, Board of

Occupational Therapy, Advisory Board on

Oil and Gas Conservation Board, Virginia

Opticians, Board for

Optometry, Board of

Pesticide Control Board

Pharmacy, Board of

Physical Therapy, Advisory Board on

Port Authority, Board of Commissioners of the Virginia

Professional and Occupational Regulation, Board for

Professional Counselors, Board of

Professional Soil Scientists, Board for

Psychology, Board of

Public Defender Commission

Public School Authority, Virginia

Purchases and Supply Appeals Board

Real Estate Appraiser Board

Real Estate Board

Recreation Specialists, Board of

Rehabilitative Services, Board of

Respiratory Therapy, Advisory Board on

Safety and Health Codes Board

Seed Potato Board

Social Services, Board of

Social Work, Board of

State Health Department Sewage Handling and Disposal Appeal Review Board

Substance Abuse Certification Board

Surface Mining Review, Board of

Treasury Board

Veterans' Affairs, Board on

Veterinary Medicine, Board of

Virginia Advanced Shipbuilding and Carrier Integration Center Board

Virginia Board for Asbestos Licensing

Virginia Health Planning Board

Virginia Manufactured Housing Board

Virginia Veterans Care Center Board of Trustees

Virginia Waste Management Board

Visually Handicapped, Virginia Board for the

Waste Management Facility Operators, Board for

Water Control Board, State

Waterworks and Wastewater Works Operators, Board for

Well Review Board, Virginia.

CHAPTER 5.6. SECRETARY OF ADMINISTRATION

§ 2.1-51.27

Agencies for which responsible

The Secretary of Administration shall be responsible to the Governor for the following agencies and boards: Department of Information Technology, Council on Information Management, Department of Personnel and Training, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, Commission on Local Government, Charitable Gaming Commission, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

CHAPTER 21. VIRGINIA FREEDOM OF INFORMATION ACT

§ 2.1-342

Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter

A. Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers

and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within five work days after the receipt of the request by the public body which is the custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

1. The requested records shall be provided to the requesting citizen.
2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.
3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, but shall disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.
4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also

make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state government shall compile, and annually update, an index of computer databases which contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or documents residing in a computer. Such index shall be an official record and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the Director of the Department of Information Technology in consultation with the Librarian of Virginia and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to §53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

Criminal incident information relating to felony offenses shall not be excluded from the provisions of this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a

review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the Office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992, nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under §2.1-344 and material furnished in confidence with respect thereto.

7. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.
12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to §2.1-344.
13. Reports, documentary evidence and other information as specified in §§2.1-373.2 and 63.1-55.4.
14. Proprietary information gathered by or for the Virginia Port Authority as provided in §62.1-132.4 or §62.1-134.1.
15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.
16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.
17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.
18. Financial statements not publicly available filed with applications for industrial development financings.
19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.
20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public,

the financial interest of the governmental unit would be adversely affected.

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

22. Documents as specified in §58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under §2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

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

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally

identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§63.1-172 et seq.) and 10 (§63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Juvenile Justice, the Virginia Department of Juvenile Justice or any facility thereof to the extent as determined by the Director of the Department of Juvenile Justice, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

- (i) Security manuals, including emergency plans that are a part thereof;
- (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;
- (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;
- (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility

or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

(vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in §2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to §36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

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

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

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

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets,

odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

43. Reports and court documents required to be kept confidential pursuant to §37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor

with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former §32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

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

49. In the case of corporations organized by the Virginia Retirement System, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

50. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

52. [Repealed.]

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or

warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

- (i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;
- (ii) Surveillance techniques;
- (iii) The installation, operation, or utilization of any alarm technology;
- (iv) Engineering and architectural drawings of such government stores or warehouses;
- (v) The transportation of merchandise, including routes and schedules; and
- (vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:
 - a. Number of employees present during each shift;
 - b. Busiest hours, with the maximum number of customers in such government store; and
 - c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to §54.1-2506.1.

58. Confidential information designated as provided in subsection D of §11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of §11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to §32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to §15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

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

62. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private

Transportation Act of 1995 (§56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms public entity and private entity shall be defined as they are defined in the Public-Private Transportation Act of 1995.

63. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; engineering plans, architectural drawings, or operational specifications of governmental law-enforcement facilities, including but not limited to courthouses, jails, and detention facilities, to the extent that disclosure could jeopardize the safety or security of law-enforcement offices; however, general descriptions shall be provided to the public upon request.

64. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

65. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to §32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

66. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: (i) an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be

filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and (ii) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

67. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information is made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

68. Confidential proprietary records which are provided by a franchisee under §15.2-2108 to its franchising authority pursuant to a promise of confidentiality from the franchising authority which relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

69. Records of the Intervention Program Committee within the Department of Health Professions to the extent such records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by §54.1-2517.

70. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§32.1-73.1 et seq.) of Chapter 2 of Title 32.1, to the extent such records contain: (i) medical or mental records, or other data identifying individual patients, or (ii) proprietary business or research related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of

such information would be harmful to the competitive position of the applicant.

71. Information which would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

72. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Charitable Gaming Commission pursuant to subsection E of §18.2-340.34.

73. Personal information, as defined in §2.1-379, provided to the Board of the Virginia Higher Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts pursuant to Chapter 4.9 (§23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form which does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

74. Any record copied, recorded or received by the Commissioner of Health in the course of an examination, investigation or review of a managed care health insurance plan licensee pursuant to §§32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

C. Neither any provision of this chapter nor any provision of Chapter 26 (§2.1-377 et seq.) of this title shall be construed as denying public access to contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 3 of subsection B of this section, or to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state, local or regional government in the Commonwealth or to the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

D. No provision of this chapter shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§53.1-261 et seq.). However, this subsection shall

not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including but not limited to his rights to call for evidence in his favor in a criminal prosecution.

TITLE 4.1. ALCOHOLIC BEVERAGE CONTROL ACT

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

§ 4.1-100

Definitions

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

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

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition.

"Barrel" means any container or vessel having a capacity of more than forty-three ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than fifteen bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

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

"Board" means the Virginia Alcoholic Beverage Control Board.

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

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

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

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

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

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

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

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

"Farm winery" means an establishment located on a farm in the Commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than fourteen percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and

products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

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

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

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

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

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

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

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

"Licensed" means the holding of a valid license issued by the Board.

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

§4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

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

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

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

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

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

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

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to

employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

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

"Resort complex" means a facility with a hotel owning year-round sports and recreational facilities located contiguously on the same property. The hotel must have a minimum of 150 private guest rooms contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

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

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

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

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

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

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

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

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

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by §4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

CHAPTER 2. ADMINISTRATION OF LICENSES

ARTICLE 2. LICENSES GRANTED BY BOARD; LIMITATIONS; REVOCATION AND SUSPENSION

§ 4.1-225

Grounds for which Board may suspend or revoke licenses

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

1. The licensee, or if the licensee is a partnership or association, any partner or member thereof, or if the licensee is a corporation, any officer, director, or manager thereof or shareholder owning ten percent or more of its capital stock:
 - a. Has misrepresented a material fact in applying to the Board for such license;
 - b. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted

to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with §4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§4.1-300 et seq.) of this title; (iii) committed a violation of the Wine Franchise Act (§4.1-400 et seq.) or the Beer Franchise Act (§4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

d. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

e. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

f. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

g. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

h. Has allowed noisy, lewd or disorderly conduct upon the licensed premises, or has maintained such premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

i. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

j. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

k. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than

twenty-one years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

l. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this title;

m. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

n. Has allowed any lewd, obscene or indecent literature, pictures or materials upon the licensed premises;

o. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises; or

p. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-248.7; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

5. Any other cause authorized by this title.

§ 4.1-226

Grounds for which Board shall suspend or revoke licenses

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

1. A licensee has violated or permitted the violation of §18.2-331, relating to the illegal possession of a gambling device, upon the premises for which the Board has granted a license for the sale of alcoholic beverages to the public.

2. In the licensed establishment of a mixed beverage licensee there (i) is entertainment of a lewd, obscene or lustful nature including what is commonly called stripteasing, topless entertaining, and the like, or which has employees who are not clad both above and below the waist or who uncommonly expose the body or (ii) are employees who solicit the sale of alcoholic beverages.

CHAPTER 3. PROHIBITED PRACTICES; PENALTIES; PROCEDURAL MATTERS

ARTICLE 2. PROHIBITED PRACTICES BY LICENSEES

§ 4.1-325

Prohibited acts by mixed beverage licensees; penalty

A. In addition to §4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except in a frozen drink dispenser of a type approved by the Board and in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine;
7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage;
8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;
10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
11. Allow any immoral, lewd, obscene, indecent or profane conduct, language, literature, pictures, performance or materials on the licensed premises;
12. Allow any striptease act, or the like on the licensed premises;
13. Allow persons connected with the licensed business to appear nude or partially nude;
14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty;
15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210;
16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
17. Conceal any sale or consumption of any alcoholic beverages;
18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;
19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;
20. Allow any person to receive a percentage of the income of the licensed business or have any beneficial interest in such business, except in accordance with

Board regulations;

21. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling; or

22. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

TITLE 9. COMMISSIONS, BOARDS AND INSTITUTIONS GENERALLY

CHAPTER 1.4. CLASSIFICATION OF EXECUTIVE BRANCH BOARDS COMMISSIONS AND COUNCILS

§ 9-6.25:3

Supervisory boards, commissions, and councils

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following supervisory boards, commissions, and councils:

Alcoholic Beverage Control Board

Board for Branch Pilots

Board of Commissioners, Virginia Port Authority

Board of Game and Inland Fisheries

Board of Regents, Gunston Hall Plantation

Board of Regents, James Monroe Memorial Law Office and Library

Board of Trustees, Chippokes Plantation Farm Foundation

Board of Trustees, Frontier Culture Museum of Virginia

Board of Trustees, Jamestown-Yorktown Foundation

Board of Trustees, the Science Museum of Virginia

Board of Trustees, Virginia Museum of Fine Arts

Board of Trustees, Virginia Retirement System

Board of Trustees, Virginia Veterans Care Center

Board of Trustees, Virginia War Memorial Foundation

Board of Visitors, Christopher Newport University

Board of Visitors, George Mason University

Board of Visitors, James Madison University

Board of Visitors, Longwood College

Board of Visitors, Mary Washington College

Board of Visitors, Norfolk State University

Board of Visitors, Old Dominion University

Board of Visitors, Radford University

Board of Visitors, The College of William and Mary in Virginia

Board of Visitors, University of Virginia

Board of Visitors, Virginia Commonwealth University

Board of Visitors, Virginia Military Institute

Board of Visitors, Virginia Polytechnic Institute and State University

Board of Visitors, Virginia State University

Charitable Gaming Commission

Commonwealth's Attorneys' Services Council

Compensation Board

Governing Board, Virginia College Building Authority

Governing Board, Virginia Public School Authority

Motor Vehicle Dealer Board

State Board for Community Colleges, Virginia Community College System

State Board of Education

State Certified Seed Board

State Council of Higher Education for Virginia

Virginia Agricultural Council

Virginia Bright Flue-Cured Tobacco Board

Virginia Board for People with Disabilities

Virginia Cattle Industry Board

Virginia Corn Board

Virginia Cotton Board

Virginia Dark-Fired Tobacco Board

Virginia Egg Board

Virginia Horse Industry Board

Virginia Marine Products Board

Virginia Peanut Board

Virginia Pork Industry Board

Virginia Soybean Board

Virginia State Apple Board

Virginia Sweet Potato Board.

TITLE 10.1. CONSERVATION

SUBTITLE II. ACTIVITIES ADMINISTERED BY OTHER ENTITIES

CHAPTER 14. VIRGINIA WASTE MANAGEMENT ACT

ARTICLE 1. GENERAL PROVISIONS

§ 10.1-1400

Definitions

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

"Applicant" means any and all persons seeking or holding a permit required under this chapter.

"Board" means the Virginia Waste Management Board.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Department" means the Department of Waste Management.

"Director" means the Director of the Department of Waste Management.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name, business address, and social security number of all key personnel;
2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;
3. A description of the business experience of all key personnel listed in the disclosure statement;
4. A listing of all permits or licenses required for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past ten years;
5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or local authority, within the past ten years, which are pending or have concluded with a finding

of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within ten years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§54.1-3400 et seq.) of Title 54.1; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past ten years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Equity" includes both legal and equitable interests.

"Federal acts" means any act of Congress providing for waste management and regulations promulgated thereunder.

"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so designated by regulation or order.

"Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

"Hazardous waste" means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Hazardous waste generation" means the act or process of producing hazardous waste.

"Household hazardous waste" means any waste material derived from households (including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas) which, except for the fact that it is derived from a household, would be classified as a hazardous waste, including but not limited to, nickel, cadmium, mercuric oxide, manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint solvents; toxic art supplies, used motor oil and unusable gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides, or restricted-use pesticides as defined in §3.1-249.27. All empty household product containers and any household products in legal distribution, storage or use shall not be considered household hazardous waste.

"Key personnel" means the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the Director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Security and Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste under contract with or for one of those governmental entities.

"Manifest" means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage of such hazardous waste.

"Mixed radioactive waste" means radioactive waste that contains a substance which renders the mixture a hazardous waste.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

"Person" includes an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

"Radioactive waste" or "nuclear waste" includes:

1. "Low-level radioactive waste" material that:

a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e (2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014 (e) (2)); and

b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste; or

2. "High-level radioactive waste" which means:

a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber, and insulation, which remain after a shredder has separated for purposes of recycling the ferrous and nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste remaining after removal of metals, glass, plastics and paper which are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

"Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption and utilization of recovered resources.

"Resource recovery" means the recovery of material or energy from solid waste.

"Resource recovery system" means a solid waste management system which provides for collection, separation, recycling and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"Sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or ground water.

"Sludge" means any solid, semisolid or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility or any other waste producing facility.

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Solid waste management facility" means a site used for planned treating, long term storage, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Transport" or "transportation" means any movement of property and any packing, loading, unloading or storage incidental thereto.

"Treatment" means any method, technique or process, including incineration or neutralization, designed to change the physical, chemical or biological character or composition of any waste to neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or storage or reduced in volume.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.

"Waste" means any solid, hazardous or radioactive waste as defined in this section.

"Waste management" means the collection, source separation, storage, transportation, transfer, processing, treatment and disposal of waste or resource recovery.

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

ARTICLE 2. SOLID WASTE MANAGEMENT

§ 10.1-1409

Revocation or amendment of permits

A. Any permit issued by the Director pursuant to this article may be revoked, amended or suspended on any of the following grounds or on such other grounds as may be provided by the regulations of the Board:

1. The permit holder has violated any regulation or order of the Board, any condition of a permit, any provision of this chapter, or any order of a court, where such violation results in a release of harmful substances into the environment or poses a threat of release of harmful substances into the environment or presents a hazard to human health, or the violation is representative of a pattern of serious or repeated violations which, in the opinion of the Director, demonstrate the permittee's disregard for or inability to comply with applicable laws, regulations or requirements;
2. The sanitary landfill or other facility used for disposal, storage or treatment of solid waste is maintained or operated in such a manner as to pose a substantial present or potential hazard to human health or the environment;
3. The sanitary landfill, or other facility used for the disposal, storage or treatment of solid waste, because of its location, construction or lack of protective construction or measures to prevent pollution, poses a substantial present or potential hazard to human health or the environment;
4. Leachate or residues from the sanitary landfill or other facility used for the disposal, storage or treatment of solid waste pose a substantial threat of contamination or pollution of the air, surface waters or ground water;
5. The person to whom the permit was issued abandons or ceases to operate the facility, or sells, leases or transfers the facility without properly transferring the permit in accordance with the regulations of the Board;
6. As a result of changes in key personnel, the Director finds that the requirements necessary for issuance of a permit are no longer satisfied;
7. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in applying for a permit or in his disclosure statement, or in any other

report or certification required under this law or under the regulations of the Board, or has knowingly or willfully failed to notify the Director of any material change to the information in its disclosure statement; or

8. Any key personnel has been convicted of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 of Title 54.1; racketeering; violation of antitrust laws; or has been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws of the United States, the Commonwealth or any other state and the Director determines that such conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner, as to warrant denial, revocation, amendment or suspension of the permit.

In making such determination, the Director shall consider:

- (a) The nature and details of the acts attributed to key personnel;
- (b) The degree of culpability of the applicant, if any;
- (c) The applicant's policy or history of discipline of key personnel for such activities;
- (d) Whether the applicant has substantially complied with all rules, regulations, permits, orders and statutes applicable to the applicant's activities in Virginia;
- (e) Whether the applicant has implemented formal management controls to minimize and prevent the occurrence of such violations; and
- (f) Mitigation based upon demonstration of good behavior by the applicant including, without limitation, prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for the violations or other demonstrations of good behavior by the applicant that the Director finds relevant to its decision.

B. The Director may amend or attach conditions to a permit when:

- 1. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect the public health and environment;

2. There is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or ground water;

3. Investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from significant adverse effects; or

4. The amendment is necessary to meet changes in applicable regulatory requirements.

C. If the Director finds that solid wastes are no longer being stored, treated or disposed at a facility in accordance with Board regulations, he may revoke the permit issued for such facility. As a condition to granting or continuing in effect a permit, he may also require the permittee to provide perpetual care and surveillance of the facility.

D. If the Director summarily suspends a permit pursuant to subdivision 18 of §10.1-1402, the Director shall hold a conference pursuant to §9-6.14:11 within forty-eight hours to consider whether to continue the suspension pending a hearing to amend or revoke the permit, or to issue any other appropriate order. Notice of the hearing shall be delivered at the conference or sent at the time the permit is suspended. Any person whose permit is suspended by the Director shall cease activity for which the permit was issued until the permit is reinstated by the Director or by a court.

ARTICLE 4. HAZARDOUS WASTE MANAGEMENT

§ 10.1-1427

Revocation, suspension or amendment of permits

A. Any permit issued by the Director pursuant to this article may be revoked, amended or suspended on any of the following grounds or on such other grounds as may be provided by the regulations of the Board:

1. The permit holder has violated any regulation or order of the Board, any condition of a permit, any provision of this chapter, or any order of a court, where such violation (i) results in a release of harmful substances into the environment, (ii) poses a threat of release of harmful substances into the environment, (iii) presents a hazard to human health, or (iv) is representative of a pattern of serious or repeated violations which, in the opinion of the Director, demonstrates the permittee's disregard for or inability to comply with applicable laws, regulations or requirements;

2. The person to whom the permit was issued abandons, sells, leases or ceases to operate the facility permitted;

3. The facilities used in the transportation, storage, treatment or disposal of hazardous waste are operated, located, constructed or maintained in such a manner as to pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or ground water;

4. Such protective construction or equipment as is found to be reasonable, technologically feasible and necessary to prevent substantial present or potential hazard to human health and welfare or the environment has not been installed at a facility used for the storage, treatment or disposal of a hazardous waste; or

5. Any key personnel have been convicted of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act (§54.1-3400 et seq.); racketeering; violation of antitrust laws; or has been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws of the United States, the Commonwealth, or any other state and the Director determines that such conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner, as to warrant denial, revocation, amendment or suspension of the permit.

In making such determination, the Director shall consider:

- a. The nature and details of the acts attributed to key personnel;
- b. The degree of culpability of the applicant, if any;
- c. The applicant's policy or history of discipline of key personnel for such activities;
- d. Whether the applicant has substantially complied with all rules, regulations, permits, orders and statutes applicable to the applicant's activities in Virginia;
- e. Whether the applicant has implemented formal management control to minimize and prevent the occurrence of such violations; and
- f. Mitigation based upon demonstration of good behavior by the applicant including, without limitation, prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for the violations or other demonstrations of good behavior by the applicant that the Director finds relevant to his decision.

B. The Director may amend or attach conditions to a permit when:

1. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect the public health and environment;
2. There is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or ground water;
3. Investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from significant adverse effects; or
4. The amendment is necessary to meet changes in applicable regulatory requirements.

C. If the Director finds that hazardous wastes are no longer being stored, treated or disposed of at a facility in accordance with Board regulations, the Director may revoke the permit issued for such facility or, as a condition to granting or continuing in effect a permit, may require the person to whom the permit was issued to provide perpetual care and surveillance of the facility.

TITLE 11. CONTRACTS

CHAPTER 3. GAMING CONTRACTS

§ 11-14

Gaming contracts void

Except as otherwise provided in this section, all wagers, conveyances, assurances, and all contracts and securities whereof the whole or any part of the consideration is money or other valuable thing won, laid, or bet, at any game, horse race, sport or pastime, and all contracts to repay any money knowingly lent at the time and place of such game, race, sport or pastime, to any person for the purpose of so gaming, betting, or wagering, or to repay any money so lent to any person who shall, at such time and place, so pay, bet or wager, shall be utterly void.

Notwithstanding any other provision of law, a contract governing the distribution of state lottery proceeds shall be valid and enforceable as between the parties to the contract.

§ 11-15

Recovery of money or property lost in gaming

Any person who shall, by playing at any game or betting on the sides or hands of such as play at any game, lose within twenty-four hours, the sum or value of five

dollars, or more, and pay or deliver the same, or any part thereof, may, within three months next following, recover from the winner, the money or the value of the goods so lost and paid or delivered, with costs of suit in civil action, either by suit or warrant, according to the amount or value thereof.

§ 11-16

Bill by loser; repayment discharges winner from punishment

Such loser may file a bill in equity against such winner, who shall answer the same, and upon discovery and repayment of the money or property so won, or its value, such winner shall be discharged from any forfeiture or punishment which he may have incurred for winning the same.

TITLE 18.2. CRIMES AND OFFENSES GENERALLY

CHAPTER 8. CRIMES INVOLVING MORALS AND DECENCY

ARTICLE 1. GAMBLING

§ 18.2-325

Definitions

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

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

3. "Gambling device" includes:

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

b. Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that,

depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection.

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

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

§ 18.2-326

Penalty for illegal gambling

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

§ 18.2-327

Winning by fraud; penalty

If any person while gambling cheats or by fraudulent means wins or acquires for himself or another money or any other valuable thing, he shall be fined not less than five nor more than ten times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this article.

§ 18.2-328

Conducting illegal gambling operation; penalties

The operator of an illegal gambling enterprise, activity or operation shall be guilty of a Class 6 felony. However, any such operator who engages in an illegal gambling operation which (i) has been or remains in substantially continuous operation for a period in excess of thirty days or (ii) has gross revenue of \$2,000 or more in any single day shall be fined not more than \$20,000 and imprisoned not less than one year nor more than ten years.

As used in this section, the term "gross revenue" means the total amount of illegal gambling transactions handled, dealt with, received by or placed with such operation, as distinguished from any net figure or amount from which deductions are taken, without regard to whether money or any other thing of value actually changes hands.

§ 18.2-329

Owners, etc., of gambling place permitting its continuance; penalty

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

§ 18.2-330

Accessories to gambling activity; penalty

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

18.2-331

Illegal possession, etc., of gambling device; penalty

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

§ 18.2-332

Certain acts not deemed "consideration" in prosecution under this article

In any prosecution under this article, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding;

or any one or more thereof, where no charge is made to, paid by, or any purchase required of him in connection therewith.

§ 18.2-333

Exceptions to article; certain sporting events

Nothing in this article shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose or dependent upon their position or score at the end of such contest.

Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant other than the contestant purported to be entered or knowingly and fraudulently enters a contestant in a class in which it does not belong, shall be guilty of a Class 3 misdemeanor.

§ 18.2-334

Exception to article; private residences

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

§ 18.2-334.1

Defeated at referendum.

§ 18.2-334.2

Same; bingo games, raffles and duck races conducted by certain organizations

Nothing in this article shall apply to any bingo game, instant bingo, raffle, or duck race conducted solely by organizations as defined in §18.2-340.16 which have received a permit as set forth in §18.2-340.25, or which are exempt from the permit requirement under §18.2-340.23.

§ 18.2-334.3

Exemptions to article; state lottery

Nothing in this article shall apply to any lottery conducted by the Commonwealth of Virginia pursuant to Chapter 40 of Title 58.1.

§ 18.2-334.4

Exemptions to article; pari-mutuel wagering

Nothing in this article shall be construed to make it illegal to participate in any race meeting or pari-mutuel wagering conducted in accordance with Chapter 29 (§59.1-364 et seq.) of Title 59.1.

§ 18.2-335

Repealed by Acts 1979, c. 420.

§ 18.2-336

Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise; innocent owners or lienors

All money, gambling devices, office equipment and other personal property used in connection with an illegal gambling enterprise or activity, and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law-enforcement officer or which shall lawfully come into his custody, shall be forfeited to the Commonwealth by order of the court in which a conviction under this article is obtained. Such court shall order all money so forfeited to be paid over to the Commonwealth, and by order shall make such disposition of other property so forfeited as the court deems proper, including award of such property to any State agency or charitable organization for lawful purposes, or in case of the sale thereof, the proceeds therefrom to be paid over to the Commonwealth. Provided, however, that such forfeiture shall not extinguish the rights of any person without knowledge of the illegal use of such property who is the lawful owner or who has a lien on the same which has been perfected in the manner provided by law.

§ 18.2-337

Immunity of witnesses from prosecution

No witness called by the Commonwealth or by the court, giving evidence either before the grand jury or in any prosecution under this article, shall ever be prosecuted for the offense being prosecuted concerning which he testifies. Such witness shall be compelled to testify and for refusing to do so may be punished for contempt.

§ 18.2-338

Enforcement of §18.2-331 by Governor and Attorney General

If it shall come to the knowledge of the Governor that §18.2-331 is not being enforced in any county, city or town, the Governor may call upon the Attorney General to direct its enforcement in such county, city or town, and thereupon the Attorney General may instruct the attorney for the Commonwealth, sheriff and chief of police, if any, of such county, or the attorney for the Commonwealth and chief of police of such city, or the attorney for the Commonwealth of the county in which such town is located and the chief of police or sergeant of such town, to take such steps as may be necessary to insure the enforcement of such section in such county, city or town, and if any such officers, after receiving such instructions, shall thereafter fail or refuse to exercise diligence in the enforcement of §18.2-331, the Attorney General shall make report thereof in writing to the Governor and to the judge of the circuit court having jurisdiction over the acts thereby prohibited, and thereupon the Attorney General upon being directed so to do by the Governor, shall take such steps as he may deem proper in directing the institution and prosecution of criminal proceedings, to secure the enforcement of §18.2-331.

§ 18.2-339

Enjoining offenses relating to gambling

Whenever any person shall be engaged in committing, or in permitting to be committed, or shall be about to commit, or permit, any act prohibited by any one or more of the sections in this article, the attorney for the Commonwealth of the county or city in which such act is being, or is about to be, committed or permitted, or the Attorney General of the Commonwealth, may institute and maintain a suit in equity in the appropriate court, in the name of the Commonwealth, upon the relation of such attorney for the Commonwealth, or the Attorney General, to enjoin and restrain such person from committing, or permitting, such prohibited act or acts. The procedure in any such suit shall be similar to the procedure in other suits for injunctions, except that no bond shall be required upon the granting of either a temporary or permanent injunction therein.

§ 18.2-340

County ordinances prohibiting illegal gambling

The governing body of any county may adopt ordinances prohibiting illegal gambling and other illegal activity related thereto, including provision for forfeiture proceedings in the name of the county. Such ordinances shall not conflict with the provisions of this article or with other state laws and any penalties provided for violation of such ordinances shall not exceed a fine of \$2,500 or confinement in jail for twelve months, either or both.

ARTICLE 1.1:1. CHARITABLE GAMING

§ 18.2-340.15

State control of charitable gaming

A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations. The Charitable Gaming Commission is vested with control of all charitable gaming in the Commonwealth, with plenary power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

B. The conduct of any charitable gaming is a privilege which may be granted or denied by the Charitable Gaming Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.

§ 18.2-340.16

(Effective October 1, 1998) Definitions

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to seventy-five, (ii) Commission-approved electronic devices which display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Commission-approved cards pursuant to subdivision 13 of §18.2-340.18, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five columns headed respectively by the letters B.I.N.G.O.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games.

"Commission" means the Charitable Gaming Commission.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting

and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, made completely of paper or paper products, with winners being determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, or employee thereof, which owns and leases, or leases any premise devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord.

"Organization" means any one of the following:

1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with §15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision;
2. An organization operated exclusively for religious, charitable, community or educational purposes;
3. An association of war veterans or auxiliary units thereof organized in the United States;
4. A fraternal association or corporation operating under the lodge system;
5. A local chamber of commerce; or
6. A nonprofit organization that raises funds by conducting raffles which generate annual gross receipts of less than \$75,000, provided such gross receipts from the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or community purposes.

"Qualified organization" means any organization to which a valid permit has been issued by the Commission to conduct charitable gaming or any organization which is exempt pursuant to §18.2-340.23.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made completely of paper or paper products, with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses, such cards being commonly referred to as "pull tabs" or "seal cards" which conceal one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization and not otherwise allowed under this article or under Commission regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members shall not qualify as a business expense.

"Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming supplies to any qualified organization.

§ 18.2-340.17

Charitable Gaming Commission established

A. There is hereby established, in the Office of the Secretary of Administration, the Charitable Gaming Commission. The Commission shall consist of seven members appointed by the Governor, subject to confirmation by the General Assembly. Each member of the Commission shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. To the extent practicable, the Commission shall consist of individuals from different geographic regions of the Commonwealth. Upon initial appointment, three members shall be appointed for four-year terms, two for three-year terms, and two for two-year terms. Thereafter, all members shall be appointed for four-year terms. Vacancies shall be filled by

the Governor in the same manner as the original appointment for the unexpired portion of the term. Each Commission member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than four years shall thereafter be eligible for reappointment to two consecutive terms of four years each. The Commission shall elect a chairman from among its members. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

B. The members of the Commission shall serve at the pleasure of the Governor.

C. Each member of the Commission shall receive fifty dollars for each day or part thereof spent in the performance of his duties and in addition shall be reimbursed for his reasonable expenses incurred therein.

D. A quorum shall consist of four members. The decision of a majority of those members present and voting shall constitute a decision of the Commission.

E. The Commission shall adopt rules and procedures for the conduct of its business. The Commission shall establish and maintain a business office within the Commonwealth at a place to be determined by the Commission. The Commission shall meet at least six times a year, and other meetings may be held at any time or place determined by the Commission or upon call of the chairman or upon a written request to the chairman by any two members. All members shall be duly notified of the time and place of any regular or other meeting at least ten days in advance of such meetings.

F. The Commission shall keep a complete and accurate record of its proceedings. A copy of the record shall be available for public inspection and copying.

§ 18.2-340.18

Powers and duties of the Commission

The Commission shall have all powers and duties necessary to carry out the provisions of this article and to exercise the control of charitable gaming as set forth in §18.2-340.15. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this article and including all persons that conduct or provide goods, services or premises used in the conduct of charitable gaming. It may employ such persons as are necessary to ensure that charitable gaming is conducted in conformity with the provisions of this article and the regulations of the Commission. The Commission may designate such agents and employees as it deems necessary and appropriate to be vested with like power to enforce the provisions of this article and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of any county, city or town.

2. The Commission, its agents and employees and any law-enforcement officers charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming. These individuals may enter such places or premises for the purpose of carrying out any duty imposed by this article, securing records required to be maintained by an organization, investigating complaints, or conducting audits.

3. The Commission may compel the production of any books, documents, records, or memoranda of any organizations or supplier for the purpose of satisfying itself that this article and its regulations are strictly complied with. In addition, the Commission may require the production of an annual balance sheet and operating statement of any person granted a permit pursuant to the provisions of this article and may require the production of any contract to which such person is or may be a party.

4. The Commission shall promulgate regulations under which charitable gaming shall be conducted in the Commonwealth and all such other regulations that it deems necessary and appropriate to effect the purposes of this article. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§9-6.14:1 et seq.).

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

6. The Commission may compel any person holding a permit to file with the Commission such documents, information or data as shall appear to the Commission to be necessary for the performance of its duties.

7. The Commission may enter into arrangements with any governmental agency of this or any other state or any locality in the Commonwealth for the purposes of exchanging information or performing any other act to better ensure the proper conduct of charitable gaming.

8. The Commission may issue interim certification of tax-exempt status and collect a fee therefor in accordance with subsection B of §18.2-340.24.

9. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission and any recommendations for legislation applicable to charitable gaming in the Commonwealth.

10. The Commission, its agents and employees may conduct such audits, in addition to those required by §18.2-340.31, as they deem necessary and desirable.

11. The Commission may limit the number of organizations for which a person may manage, operate or conduct charitable games.

12. The Commission may report any alleged criminal violation of this article to the appropriate attorney for the Commonwealth for appropriate action.

13. The Commission may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games which are conducted in a manner consistent with the provisions of this article. Commission-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

§ 18.2-340.19

Regulations of the Commission

The Commission shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Commission finds appropriate to and consistent with the purpose of charitable gaming.

2. Require the organization to have at least fifty percent of its membership consist of residents of the Commonwealth and specify the conditions under which a complete list of the organization's members who participate in the management, operation or conduct of charitable gaming may be required in order for the Commission to ascertain the percentage of Virginia residents; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal Revenue Code, the Commission shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Commission in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§2.1-340 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to

be conducted.

4. Establish requirements for the audit of all reports required in accordance with §18.2-340.30.
5. Define electronic and mechanical equipment used in the conduct of charitable gaming.
6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo and (ii) permit members who participate in the management, operation or conduct of bingo to play bingo.
7. Prescribe the conditions under which a qualified organization located in the Northern Virginia Planning District may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth pursuant to subsection C of §18.2-340.26.
8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of eleven years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.
9. Prescribe the conditions under which a person below the age of eighteen years may play bingo, provided such person (i) has the consent of his parent or legal guardian or (ii) is accompanied by his parent or legal guardian.
10. Require all qualified organizations that are subject to Commission regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

§ 18.2-340.20

Denial, suspension or revocation of permit; hearings and appeals

A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§9-6.14:1 et seq.).

B. Except as provided in §§18.2-340.30 and 18.2-340.36, no permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Commission, hearings may be conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court. After a hearing on the issues, the Commission may refuse to issue or

may suspend or revoke any such permit if it determines that the organization has not complied with the provisions of this article or the regulations of the Commission.

C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or revocation of a permit, or any other action of the Commission, may seek review of such action in accordance with Article 4 (§ 9-6.14:15 et seq.) of the Administrative Process Act.

§ 18.2-340.21

Executive Secretary; staff

The Commission shall appoint an Executive Secretary and such other employees as it deems essential to perform its duties under this article, who shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees shall be compensated as provided by the Commission.

The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and full record of all proceedings of the Commission and preserve at the Commission's principal office all books, documents and papers of the Commission.

§ 18.2-340.22

Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts

A. This article permits qualified organizations to conduct raffles, bingo and instant bingo games. All games not explicitly authorized by this article or Commission regulations adopted in accordance with §18.2-340.18 are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of §11-14.

C. Nothing in this article shall prohibit an organization from using the State Lottery Department's Pick-3 number or any number or other designation selected by the State Lottery Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 18.2-340.23

Organizations exempt from certain permit, financial reporting and audit requirements

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$25,000 or less in any twelve-month period shall be required to (i) notify the Commission of its intention to conduct charitable gaming, (ii) file a resolution of its board of

directors as required by subsection B, or (iii) comply with Commission regulations. If any organization's actual gross receipts for the twelve-month period exceed \$25,000, the Commission may require the organization to file by a specified date the report required by §18.2-340.30.

B. Any volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with §15.1-26.01 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being part of the safety program of such political subdivision shall be exempt from the requirements of §18.2-340.25 if, prior to conducting charitable gaming, it notifies the Commission, on a form prescribed by the Commission, that it will conduct charitable gaming. The organization must receive notification of its exempt status from the Commission prior to conducting charitable gaming. Any such organization also shall be exempt from the financial reporting requirements of this article and the payment of audit fees but shall file with the Commission, at such time as may be required by the Commission, a resolution of its board of directors stating that the organization has complied with the provisions of this article. Nothing in this subsection shall be construed as exempting volunteer fire departments and rescue squads from any other provisions of this article or other Commission regulations.

C. Nothing in this section shall prevent the Commission from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Commission regulations.

§ 18.2-340.24

Eligibility for permit; exceptions; where valid

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town wherein the organization proposes to conduct charitable gaming for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or of a national or international civic organization which is exempt under § 501 (c) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than three years old; (iii) to recently established volunteer fire and rescue companies or departments, after county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from

one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the Commission for an interim certification of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within sixty days of receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is earlier.

C. A permit shall be valid only for the locations designated in the permit.

§ 18.2-340.25

Annual permit required; application fee; form of application

A. Except as provided for in §18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain an annual permit from the Commission.

B. All complete applications for a permit shall be acted upon by the Commission within forty-five days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Commission, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. The application shall be a matter of public record.

All permits shall be subject to regulation by the Commission to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Commission.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant to §18.2-340.27.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Commission and shall be accompanied by payment of the fee for processing the application.

§ 18.2-340.26

Sale of raffle tickets; drawings

- A. Except as provided in subsection C, a qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth.
- B. Pull tabs or seal cards used as part of a raffle as defined in §18.2-340.16 may be sold only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull tabs or seal cards are sold is open only to members and their guests.
- C. A qualified organization located in the Northern Virginia Planning District may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth, provided the raffle is conducted in accordance with (i) the regulations of the Commission and (ii) the laws and regulations of the jurisdiction in which the raffle drawing will be held.

§ 18.2-340.27

Conduct of bingo games; special permits

- A. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.
- B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in bingo games.
- C. Bingo games may be held by qualified organizations no more frequently than two calendar days in any calendar week, except in accordance with subsection D.
- D. A special permit may be granted a qualified organization which entitles it to conduct more frequent operations of bingo games during carnivals, fairs and other similar events which are located in the jurisdiction designated in the permit.

§ 18.2-340.28

Conduct of instant bingo

- A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo as a part of such bingo game and only at such location and at such times as designated in the permit for regular bingo games.

B. Any organization conducting instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Instant bingo supplies shall be paid for only by check drawn on an account of the organization. During the conduct of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies being used shall be maintained by the organization on the premises where the instant bingo is being conducted.

C. No qualified organization shall sell any instant bingo card to any individual under eighteen years of age.

§ 18.2-340.29

Joint operation of bingo games; written reports; special permit required

A. Any two qualified organizations may jointly organize and conduct bingo games provided both have fully complied with all other provisions of this article.

B. Any two qualified organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this article that would apply to a single organization conducting bingo games and (ii) required to furnish to the Commission a written report setting forth the location where such games will be held, the division of manpower, costs, and proceeds for each game to be jointly conducted.

Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the Commission shall issue a special permit for the joint conduct of all approved games.

C. No bingo game shall be jointly conducted until the special permit issued pursuant to subsection B is obtained by the organizations.

§ 18.2-340.30

Reports of gross receipts and disbursements required; form of reports; failure to file

A. Each qualified organization shall keep a complete record of all receipts from its charitable gaming operation and all disbursements related to such operation. Except as provided in §18.2-340.23, each qualified organization shall file at least annually, on a form prescribed by the Commission, a report of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to

its charitable gaming operation that the Commission may require. In addition, the Commission, by regulation, may require any qualified organization whose receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed per this section shall be a matter of public record.

B. All reports required by this section shall be acknowledged in the presence of a notary public and filed on or before the date prescribed by the Commission.

C. Except as provided in §18.2-340.23, each qualified organization shall designate an individual who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in §18.2-340.19 or have been disbursed in a manner approved by the Commission.

D. Each qualified organization shall maintain (i) for three years a written record of the dates on which bingo games are played, the number of people in attendance on each date and the amount of the gross receipts and prizes paid on each day; (ii) a record of the name and address of each individual to whom a regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports when due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Commission may grant an extension of time for filing such reports for a period not to exceed forty-five days if requested by an organization, provided the organization requests an extension within fifteen days of the time such reports are due. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, and no new permit shall be required.

§ 18.2-340.31

Audit of reports; exemption; audit and administration fee

A. Except as provided in §18.2-340.23, all reports filed pursuant to §18.2-340.30 shall be subject to audit by the Commission in accordance with Commission regulations. The Commission may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Commission's responsibilities under this article.

B. The Commission shall prescribe a reasonable audit and administration fee to be paid by any organization conducting charitable gaming under a permit issued by the Commission unless the organization is exempt from such fee pursuant to §18.2-340.23. Such fee shall not exceed one and one-half percent of the gross receipts which an organization reports pursuant to §18.2-340.30. Beginning July 1, 1998, the audit and administration fee charged by the Commission shall not exceed one and one-quarter percent of the gross receipts which an organization reports pursuant to §18.2-340.30. The audit and administration fee shall accompany each annual report or each three-month report if such report is required by the Commission pursuant to §18.2-340.30.

C. The audit and administration fee shall be payable to the Commission. All such fees received by the Commission shall be separately accounted for and shall be used only for the purposes of auditing and regulating charitable gaming.

§ 18.2-340.32

Authority of local governments; proceeds exempt from local taxation

A. The governing body of any county, city or town may adopt an ordinance consistent with this article and the regulations of the Commission which (i) prohibits the playing of instant bingo and (ii) establishes reasonable hours during which bingo games may be played within such jurisdiction. If the governing body of any town adopts an ordinance pursuant to the provisions of this section, such town shall not be subject to any ordinance adopted by the county within which such town lies.

B. No governing body of any county, city or town may impose a gross receipts, entertainment, admission or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

§ 18.2-340.33

(Effective October 1, 1998) Prohibited practices

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the

expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. No qualified organization shall enter into a contract with, or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with §18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with §18.2-340.27.

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least thirty days immediately preceding such participation, has been a bona fide member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; or (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations;

b. Persons under the age of nineteen who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization; and

d. A member of a qualified organization lawfully participating in the management, operation or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Commission regulations.

7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, markers, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment, and each service to be provided by the landlord.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$25;

- b. No regular bingo or special bingo game prize shall exceed \$100;
- c. No instant bingo prize for a single card shall exceed \$500; and
- d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

The provisions of this subdivision shall not apply to any bingo game in which all the gross receipts from players for that game, up to \$1,000, are paid as prize money back to the players, provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

- 10. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as permitted in §18.2-340.26, which prize award for a single card shall not exceed \$500.

- 11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in §38.2-120, written by an insurer licensed to do business in the Commonwealth.

- 12. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Commission regulation.

- 13. Qualified organizations jointly conducting bingo games pursuant to §18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise

apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

14. A qualified organization shall not purchase any charitable gaming supplies for use in this Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 18.2-340.34.

15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

§ 18.2-340.34

Suppliers of charitable gaming supplies; registration; qualification; suspension, revocation or refusal to renew certificate; maintenance, production, and release of records

A. No person shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Commission. An application for registration shall be made on forms prescribed by the Commission and shall be accompanied by a fee in the amount of \$500. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$500 and shall be made on forms prescribed by the Commission.

B. The Commission shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers. The Commission may r>
s, or which has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Commission may suspend, revoke or refuse to renew the registration certificate of any supplier for any conduct described in subsection B or for any violation of this article or regulation of the Commission. Before taking any such action, the Commission shall give the supplier a written statement of the grounds upon which it

proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§9-6.14:1 et seq.).

D. Each supplier shall document each sale of charitable gaming supplies to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which the supplies were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity of deals sold and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color and quantity of bingo paper sold; and (v) any other information with respect to items of charitable gaming supplies as the Commission may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier shall make such documents immediately available for inspection and copying to any agent or employee of the Commission upon request made during normal business hours. This subsection shall not limit the right of the Commission to require the production of any other documents in the possession of the supplier which relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Commission in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§2.1-340 et seq.).

§ 18.2-340.35

Assistance from Department of State Police

The Department of the State Police, upon request of the Commission, shall assist in the conduct of investigations by the Commission.

§ 18.2-340.36

Suspension of permit

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or the regulations of the Commission, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit of the organization conducting the bingo game or raffle. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit, he shall suspend the permit. Immediately upon such

suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Commission or its designated hearing officer within ten days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Commission or a court of competent jurisdiction.

§ 18.2-340.37

Criminal penalties

A. Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report or other document required to be filed with or made to the Commission shall be guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

§ 18.2-340.38

Transitional provisions

A. In order to implement the statewide regulation of charitable gaming expeditiously, rules and regulations shall be adopted by the Commission but shall not be subject to the Administrative Process Act (§9-6.14:1 et seq.) during the first twenty-four-month period following the earliest effective date of any portion of this article. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.

B. The Commission may issue temporary licenses upon conditions as it deems necessary, subject however to all limitations set forth in this article, for a term which shall not extend beyond one year after the latest effective date of any portion of this article.

TITLE 19.2. CRIMINAL PROCEDURE

CHAPTER 13. GRAND JURIES

ARTICLE 4. MULTI-JURISDICTION OF GRAND JURIES

§ 19.2-215.1

Functions of a multi-jurisdiction grand jury

The functions of a multi-jurisdiction grand jury are:

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

- a. Title 10.1 for which punishment as a felony is authorized;
- b. § 13.1-520;
- c. §§18.2-47 and 18.2-48;
- d. §§18.2-111 and 18.2-112;
- e. Article 6 (§18.2-59 et seq.) of Chapter 4 of Title 18.2;
- f. Article 7.1 (§18.2-152.1 et seq.) of Chapter 5 of Title 18.2;
- g. Article 1 (§18.2-247 et seq.) and Article 1.1 (§18.2-265.1 et seq.) of Chapter 7 of Title 18.2;
- h. Article 1 (§18.2-325 et seq.) and Article 1.1 (§18.2-340.1 et seq.) of Chapter 8 of Title 18.2, Chapter 29 (§59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;
- i. §18.2-434, when violations occur before a multi-jurisdiction grand jury;
- j. Article 2 (§18.2-438 et seq.) and Article 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2;
- k. §18.2-460 for which punishment as a felony is authorized;
- l. Article 1.1 (§18.2-498.1 et seq.) of Chapter 12 of Title 18.2;
- m. Article 1 (§32.1-310 et seq.) of Chapter 9 of Title 32.1;
- n. Chapter 4.2 (§59.1-68.6 et seq.) of Title 59.1; and
- o. Any other provision of law when such condition is discovered in the course of an investigation which a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate any condition which involves or tends to promote any attempt, solicitation or conspiracy to violate the laws enumerated in this section.

2. To report evidence of any criminal offense enumerated in subdivision 1 to the attorney for the Commonwealth or United States attorney of any jurisdiction where

such offense could be prosecuted or investigated and, when appropriate, to the Attorney General.

3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.

TITLE 58.1. TAXATION

SUBTITLE I. TAXES ADMINISTERED BY THE DEPARTMENT OF TAXATION

CHAPTER 1.00:00. GENERAL PROVISIONS OF TITLE 58.1

ARTICLE 1. IN GENERAL

§ 58.1-3

(Delayed effective date - See notes) Secrecy of information; penalties

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to §58.1-1714, when requested by a beneficiary of the

estate or an heir at law of the decedent.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered

by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the Enterprise Zone Act (§59.1-270 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; and (xiv) provide upon written request information regarding taxpayers who claim the earned income tax credit for low-income families with children to the Virginia Department of Social Services and the United States Department of Health and Human Services, for their confidential use in collecting any additional information required to document the Commonwealth's compliance with maintenance of effort provisions of the Temporary Assistance for Needy Families (TANF) program. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city. The commissioner of revenue is authorized to provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section or by §59.1-282.4. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

CHAPTER 3. INCOME TAX

ARTICLE 1. GENERAL PROVISIONS

§ 58.1-302

Definitions

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least eighty percent of the voting stock of the other or others or (ii) at least eighty percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In

determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:
 - a. The ownership of any interest in real or tangible personal property in Virginia;
 - b. A business, trade, profession or occupation carried on in Virginia; or
 - c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or paid at a location in Virginia.

2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

"Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

"Resident estate or trust" means:

1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;
3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or
4. A trust or estate which is being administered in the Commonwealth.

"Sales" means all gross receipts of the corporation not allocated under §58.1-407, except the sale or other disposition of intangible property shall include only the net gain realized from the transaction.

"State" means for purposes of Article 10 of this chapter any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country.

"Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in §58.1-322 (including subsection E thereof if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the

modification in subsection D of §58.1-322, except that the amount of state income taxes excluded from federal taxable income shall be included.

SUBTITLE IV. OTHER SOURCES OF STATE REVENUE

CHAPTER 40. STATE LOTTERY LAW

§ 58.1-4000

Short title

This chapter shall be known and may be cited as the "State Lottery Law."

§ 58.1-4001

Establishment of state lottery

This chapter establishes a lottery to be operated by the Commonwealth which will produce revenue consonant with the probity of the Commonwealth and the general welfare of its people, to be used for the public purpose.

§ 58.1-4002

Definitions

For the purposes of this chapter:

"Board" means the State Lottery Board established by this chapter.

"Department" means the State Lottery Department created in this chapter.

"Director" means the Director of the State Lottery Department.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

§ 58.1-4003

State Lottery Department established

Notwithstanding the provisions of Article 1 (§18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive or judicial branches of government, a State Lottery Department, which shall include a Director and a State Lottery Board for the purpose of operating a state lottery.

§ 58.1-4004

Membership of Board; appointment; terms; vacancies; removal; expenses

A. The Board shall consist of five members, all of whom shall be citizens and residents of this Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Prior to the appointment of any Board members, the Governor shall consider the political affiliation and the geographic residence of the Board members. The members shall be appointed for terms of five years, except that of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, each commencing as of the date of his appointment. The members shall annually elect one member as chairman of the Board.

B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original term.

C. The members of the Board shall receive such compensation as provided in §2.1-20.3, shall be subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the performance of their official duties.

D. Before entering upon the discharge of their duties, the members of the Board shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the State Lottery Fund.

§ 58.1-4005

Appointment, qualifications and salary of Director

A. The Department shall be under the immediate supervision and direction of a Director, who shall be a person of good reputation, particularly as to honesty and integrity, and shall be subject to a thorough background investigation conducted by the Department of State Police prior to appointment. The Director shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Director shall receive a salary as provided in the general appropriations act.

B. The Director shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. Before entering upon the discharge of his duties, the Director shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein and shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the State Lottery Fund.

§ 58.1-4006

Powers of the Director

A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.
2. Act as secretary and executive officer of the Board.
3. Require bond from licensed agents as provided in subsection D of §58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.
4. Confer at least once every month with the Board on the operation and administration of the lottery; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.
5. Suspend, revoke or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.
6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.
7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the

preceding month.

8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance Committee, House Finance Committee and House Appropriations Committee the total lottery revenues, prize disbursements and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters which require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

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

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

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

§ 58.1-4007

Powers of the Board

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Except as provided in §58.1-4028, such regulations shall be in accordance with the Administrative Process Act (§9-6.14:1 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares, and the holders of winning tickets or shares. The regulations, which may be amended, repealed or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery to be conducted.

2. The price or prices of tickets or shares in the lottery; however, all such sales shall be for cash.

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

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

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

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

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

8. The method to be used in selling tickets or shares.

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

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

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.

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

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

The Board shall also promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for

procurement consistent with the provisions of Article 4 (§11-72 et seq.) of Chapter 7 of Title 11 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and any evasions of such provisions.
2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.
3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.
4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws which may be in effect in other states or countries, (ii) any literature on the subject which may be published or available, (iii) any federal laws which may affect the operation of the lottery, and (iv) the reaction of Virginia citizens to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision 10 of subsection A of this section and subdivision 5 of subsection B of §58.1-4006 of this chapter.

E. The Board shall have the authority to initiate procedures for planning, acquisition, and construction of capital projects as set forth in Article 6 (§2.1-224 et seq.) of Chapter 14 and Article 5 (§2.1-480 et seq.) of Chapter 32 of Title 2.1.

§ 58.1-4007.1

(Effective until July 1, 1999) Lottery tickets to bear telephone number for compulsive gamblers

A. All lottery tickets printed after July 1, 1997, shall bear a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to

compulsive gamblers.

B. The provisions of this section shall expire on July 1, 1999.

§ 58.1-4008

Employees of the Department; background investigations of employees

All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search and to the Department of State Police for a Virginia Criminal History Records search. All board members, officers and employees of any vendor to the State Lottery Department of lottery on-line or instant ticket goods or services working directly on a contract with the Lottery Department for such goods or services shall be subject to a National Criminal Records search conducted by the chief security officer of the State Lottery Department. A background investigation shall be conducted by the chief security officer of the State Lottery Department on every applicant prior to employment by the Department. However, all division directors of the State Lottery Department and employees of the State Lottery Department performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the State Lottery Department for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department or on contracts with vendors described in this section.

§ 58.1-4009

Licensing of lottery sales agents; penalty

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies and instrumentalities thereof.

C. The chief security officer of the State Lottery Department shall conduct a background investigation, to include a National Criminal Records search and a Virginia Criminal History Records search, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, or (iv) convicted of a felony. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection or (iv) convicted of a felony. Whoever knowingly and willfully falsifies, conceals or misrepresents a material fact or knowingly and willfully makes a false, fictitious or fraudulent statement or representation in any application for licensure to the State Lottery Department for lottery sales agent, shall be guilty of a Class 1 misdemeanor.

D. Prior to issuance of a license, every lottery sales agent shall be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department, payable to the State Lottery Department and conditioned upon the faithful performance of his duties.

E. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

§ 58.1-4010

Authority of persons licensed as lottery sales agents; annual fee

A. Notwithstanding any other provision of law, any person licensed as provided in this chapter is hereby authorized to act as a lottery sales agent.

B. The rules and regulations of the lottery shall provide for an annual license fee to be collected from each lottery sales agent. Such fee, as promulgated by rule and regulation of the Board, shall be designed to recover all or such portion of the installation and annual operational costs borne by the Department in providing services to the agent.

§ 58.1-4011

Meaning of "gross receipts."

A. Notwithstanding the provisions of Chapter 37 of this title or §58.1-4025 of this chapter relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision 11 of subsection A of §58.1-4007.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the State Lottery Department.

§ 58.1-4012

Suspension and revocation of licenses

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked or refused renewal by the Director for one or more of the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;
3. Conviction of any offense referenced in subsection C of §58.1-4009 subsequent to licensure;
4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;
5. Any act of fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the Commonwealth lottery;
6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;
7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter; or

8. Other factors established by Department regulation.

§ 58.1-4013

Right to prize not assignable; exceptions

A. No right of any person to a prize drawn shall be assignable, except that: (i) payment of any prize drawn may be paid according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department or to the estate of a deceased prize winner who has not completed such a form; and (ii) the prize to which the winner is entitled may be paid to a person pursuant to an appropriate judicial order. Payments made according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department are effective by reason of the contract involved and this statute and are not to be considered as testamentary or subject to Chapter 3 (§64.1-45 et seq.) of Title 64.1. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

B. Investments of prize proceeds made by the Department to fund the payment of an annuitized prize are to be held in the name of the Department or the Commonwealth and not in the name of the prize winner. Any claim of a prize winner to a future payment remains inchoate until the date the payment is due under Department regulations.

C. Except as provided in Chapter 13 (§63.1-249 et seq.) of Title 63.1 and this chapter, no lottery prize or installment thereof may be subject to garnishment or to a lien of any kind until such prize or installment thereof has been paid or distributed.

D. Whenever the Department or the Director is or may be named as a party in any proceeding instituted by or on behalf of one or more persons who claim ownership of a winning lottery ticket, prize, share or portion thereof for the purpose of determining the ownership or right to such ticket, prize, share or portion thereof, the Director may voluntarily pay or tender the prize, share or portion thereof into the circuit court where the action is filed, or may be ordered to do so by the court, and shall thereupon be discharged from all liability as between the claimants of such ticket, prize, share or portion thereof without regard to whether such payment was made voluntarily or pursuant to a court order.

Nothing in this section shall be deemed to constitute a waiver of the sovereign immunity of the Commonwealth or to authorize any attachment, garnishment, or lien against the prize, share or portion thereof paid into the court except as permitted by subsection C.

§ 58.1-4014

Price of tickets or shares; who may sell; penalty

A. No person shall sell a ticket or share at any price or at any location other than that fixed by rules and regulations of the Department. No person other than a licensed lottery sales agent or his employee shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another person over the age of eighteen years as a gift.

B. Any person convicted of violating this section shall be guilty of a Class 1 misdemeanor.

§ 58.1-4015

Sale of ticket or share to person under eighteen prohibited; penalty

No ticket or share shall be sold to or redeemed from any person under the age of eighteen years. Any licensee who knowingly sells or offers to sell or redeem a lottery ticket or share to or from any person under the age of eighteen years is guilty of a Class 1 misdemeanor.

§ 58.1-4016

Gift to minor prohibited

No ticket or share shall be given as a gift or otherwise to any person under the age of eighteen years. Any person who knowingly gives a lottery ticket or share to any person under the age of eighteen years is guilty of a Class 3 misdemeanor.

§ 58.1-4017

Alteration and forgery; presentation of counterfeit or altered ticket or share; penalty

Any person who forges, alters or fraudulently makes any lottery ticket or share with intent to present for payment or to transfer to another person to be presented for payment or knowingly presents for payment or transfers to another person to be presented for payment such forged, altered or fraudulently made counterfeit lottery ticket or share sold pursuant to this chapter is guilty of a Class 6 felony.

§ 58.1-4018

Prohibited actions; penalty

Any person who wrongfully and fraudulently uses, disposes of, conceals or embezzles any public money or funds associated with the operation of the lottery shall be guilty of a Class 2 felony. Any person who wrongfully and fraudulently tampers with any equipment or machinery used in the operation of the lottery shall be guilty of

a Class 2 felony. Any person who makes inaccurate entries regarding a financial accounting of the lottery in order to conceal the truth, defraud the Commonwealth and obtain money to which he is not entitled shall be guilty of a Class 2 felony.

§ 58.1-4019

Certain persons ineligible to purchase tickets or shares or receive prizes

A. No ticket or share shall be purchased by, and no prize shall be paid on a ticket purchased by or transferred to, any Board member, officer or employee of the lottery, or any board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly on a contract with the Department for such goods or services, or any person residing in the same household of such member, officer or employee or any person under the age of eighteen years, or transferee of any such persons.

B. Only natural persons may purchase lottery tickets and claim prize winnings. In all cases, the identity and social security number of all natural persons who receive any portion of the proceeds of the winning ticket must be provided in order to comply with this section and §§58.1-4015, 58.1-4016 and 58.1-4026, and Chapter 13 (§63.1-249 et seq.) of Title 63.1.

§ 58.1-4019.1

License required for "instant ticket" games or contests

No person who owns or is employed by any retail establishment in the Commonwealth shall use any "instant ticket" game or contest for the purpose of promoting or furthering the sale of any product without first obtaining a license to do so from the Director. For the purposes of this section, an "instant ticket" game or contest means a game of chance played on a paper ticket or card where (i) a person may receive gifts, prizes, or gratuities and (ii) winners are determined by preprinted concealed letters, numbers, or symbols which, when exposed, reveal immediately whether the player has won a prize or entry into a prize drawing, but shall not include any "instant ticket" game or contest licensed by the Charitable Gaming Commission pursuant to Article 1.1:1 (§18.2-340.15 et seq.) of Title 18.2. The fact that no purchase is required in order to participate shall not exclude such game or contest from the provisions of this section; however, nothing in this section shall prohibit any retail establishment from using a Virginia lottery ticket to promote or further the sale of any products except those having both a federal and state excise tax placed on them. Any person convicted of a violation of this section shall be guilty of a Class 3 misdemeanor.

§ 58.1-4020

Unclaimed prizes

A. Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person entitled thereto for 180 days after the drawing in which the prize was won in the case of a drawing prize and for 180 days after the announced end of the lottery game in the case of a prize determined in any manner other than by means of a drawing. If no claim is made for the prize within the 180 days, the Director shall deem such prize forfeited by the person entitled to claim such winnings.

B. All prizes deemed forfeited pursuant to subsection A shall be paid into the Literary Fund. The Director may develop procedures, to be approved by the Auditor of Public Accounts, for estimating the cumulative total of such unclaimed prizes in any lottery game in lieu of specifically identifying unclaimed prizes where such specific identification would not be cost effective. The Director, within sixty days after the end of each 180-day retention period, shall report the total value of prizes forfeited at the end of such period to the Comptroller, who shall promptly transfer the total of such prizes to the Literary Fund. The total value of prizes forfeited during the fiscal year shall be audited by the Auditor of Public Accounts in accordance with §58.1-4023. In the case of a prize payable over time on one or more winning tickets, if one or more winning tickets is not claimed within the 180-day redemption period, the Department shall transfer the then current monetary value of such portion of the prize remaining unclaimed to the Literary Fund in accordance with procedures approved by the State Treasurer. "Current monetary value" shall be determined by the net proceeds from the sale of that portion of jackpot securities allocated to the unclaimed winner plus the amount of the initial cash payment.

C. Subsection B of this section shall not apply to prizes of twenty-five dollars or less resulting from any lottery game other than a lottery game in which a drawing determined the prize. The Board shall adopt regulations for the disposition of all such unclaimed prizes of twenty-five dollars or less not resulting from a drawing. Such disposition shall be directed in whole or in part to either the State Lottery Fund or to other forms of compensation to licensed sales agents.

D. For purposes of this section, "prize" refers to a cash prize. In the case of a prize payable over time and not as a lump sum payment, "prize" means the present cash value of the prize, not the value paid over time.

E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person whose unclaimed prize was deemed forfeited pursuant to subsection A while he was in active military service may claim such forfeited prize by presenting his winning ticket to the Director no later than 180 days after his discharge from active military service. Within thirty days of such presentation, the Director shall verify the claim and report the verification to the Comptroller. The Comptroller shall promptly pay the verified claim first from funds available in the Unclaimed Property Trust Fund in §3-2.00 of the general appropriations act; if such funds are insufficient, then, from any undesignated, unreserved year-end balance of the general fund. All verified claims shall be

paid in accordance with the Board's rules and regulations then in effect regarding the manner of payment of prizes to the holders of winning tickets or shares.

§ 58.1-4021

Deposit of moneys received by agents; performance of functions, etc., in connection with operation of lottery; compensation of agents

A. The Director shall require all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares, and to file with the Director, or his designated agents, reports of their receipts, transactions and disbursements pertaining to the sale of lottery tickets in such form and containing such information as he may require. Such deposits and reports shall be submitted at such times and within such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and the rules and regulations of the Department, and such functions, activities and services shall constitute lawful functions, activities and services of the person.

B. The rules and regulations of the Department shall provide for a service charge to the licensed agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the State Lottery Fund by a licensed agent or for an electronic transfer of funds to the State Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

The regulations of the Department shall provide for a service charge and penalty to a licensed agent if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to offset the Department's administrative costs.

C. A licensed agent shall be charged interest as provided in §58.1-15 on the money that is not timely paid to the State Lottery Fund in accordance with the rules and regulations of the Department and shall in addition thereto pay penalties as provided by rules and regulations of the Department.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in §58.1-520 et seq., or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the State Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. Sales agents shall be personally liable for all proceeds.

F. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the State Lottery Fund.

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the State Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable explanation, (b) has a credit record reflecting recent actions which cast doubt as to its creditworthiness, (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d) states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or proceeds which are or will become due and payable to the State Lottery Fund.

§ 58.1-4022

State Lottery Fund

A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and compensation of agents as authorized by regulation and any other revenues received under this chapter, shall be placed in a special fund known as the "State Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the State Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the State Lottery Fund and shall be in such amount as provided in the

general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent compensation, shall at no time exceed ten percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor and the Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of the Department for (i) operation of the lottery, (ii) use if the game's pay-out liabilities exceed its cash on hand, or (iii) enhancement of the prize pool with income derived from lending securities held for payment of prize installments, which lending of securities shall be conducted in accordance with lending programs approved by the Department of the Treasury.

C. Any start-up sums appropriated from the general fund of the Commonwealth necessary to commence operation of a state lottery shall be repaid within the first twelve months of initial lottery sales.

D. Appropriation of lottery revenues shall be made only upon actual and audited collections as transferred to the general fund and shall in no event be predicated upon an estimation of such revenues. No later than ten days after receipt of the audit report required by §58.1-4023, the Comptroller shall transfer to the general fund, less the special reserve fund, the audited balances of the State Lottery Fund. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues transferred to the general fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth, which purposes shall include, but not be limited to, those programs specified in §22.1-199.1.

E. As a function of the administration of this chapter, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions 1 through 7 of subsection A of §58.1-4007 and (ii) the fact that the net proceeds are paid into the general fund of the Commonwealth; but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

§ 58.1-4023

Post-audit of accounts and transactions of Department; post-compliance audits

A regular post-audit shall be conducted of all accounts and transactions of the Department. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Department shall be conducted by the Auditor of Public Accounts on or before August 15 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Department. The Board may order such other audits as it deems necessary and desirable.

§ 58.1-4024

Employees of the Department

Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act, Chapter 10 (§2.1-110 et seq.) of Title 2.1. Personnel actions shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation.

§ 58.1-4025

Exemption of lottery prizes and sales of tickets from state and local taxation

Except as provided in Chapter 3 of Title 58.1 and §58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the State Lottery Law.

§ 58.1-4026

Set-off of debts to the Commonwealth from prizes

The Director shall establish by rule and regulation a set-off debt collection program in accordance with the provisions of the Setoff Debt Collection Act, Article 21 (§58.1-520 et seq.) of Chapter 3 of this title, wherein certain prizes shall be subjected to delinquent debts of agencies and institutions of the Commonwealth. The Director shall be responsible for the administration of the program and shall ensure by rule and regulation of the Department that any agency eligible to participate in the Setoff Debt Collection Act, Article 21 (§58.1-520 et seq.) of Chapter 3 of this title, shall be eligible to participate in the lottery prize set-off. The Tax Commissioner shall transmit to the Director, at such intervals as requested by the Director, a listing of claimant agencies and delinquent debts owed thereto.

§ 58.1-4027

Judicial review

The action of the Board in granting, or in refusing to grant, in suspending or revoking any license under the provisions of this chapter shall be subject to review in accordance with the provisions of the Administrative Process Act (§9-6.14:1 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

§ 58.1-4028

Transitional provisions

A. In order to implement the lottery expeditiously, the initial rules and regulations shall be adopted by the Board and approved by the Governor, but shall not be subject to the Administrative Process Act (§9-6.14:1 et seq.) during the first twelve-month period following the effective date of this chapter. At the end of such period, all rules and regulations shall automatically expire. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.

B. The Director may issue temporary licenses upon conditions as he deems necessary, subject, however, to all limitations set forth in this chapter, for a term which shall not extend beyond one year after the effective date of this act.

TITLE 59.1. TRADE AND COMMERCE

CHAPTER 29. HORSE RACING AND PARIMUTUAL WAGERING

§ 59.1-364

Control of racing with pari-mutuel wagering

A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The Virginia Racing Commission is vested with control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The Virginia Racing Commission shall encourage participation by local individuals and businesses in those activities associated with horse racing.

B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or wagering and entrance to any place where such racing or wagering is conducted is a privilege which may be granted or denied by the Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter.

C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview of §11-14.

§ 59.1-365

Definitions

Unless another meaning is required by the context, the following words shall have the meanings prescribed by this section:

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents.

"Commission" means the Virginia Racing Commission.

"Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" shall have the meaning prescribed by §54.1-3401. The Commission shall by regulation define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Commission.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Licensee" includes any person holding an owner's, operator's or limited license under §§59.1-375 through 59.1-386 of this chapter. The licensee under a limited license shall not be deemed an owner for the purposes of owning or operating a satellite facility.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law and includes pari-mutuel wagering on simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

"Permit holder" includes any person holding a permit to participate in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as provided in §59.1-387.

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

"Pool" means the amount wagered during a race meeting or during a specified period thereof.

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

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is licensed by the Commission.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

"Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering.

"Steward" means a racing official, duly appointed by the Commission, with powers and duties prescribed by Commission regulations.

"Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated person if the Commission finds that the holder of such interest or stock derives therefrom such control of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.

"Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses in the Commonwealth of Virginia.

§ 59.1-366

The Virginia Racing Commission created; members

A. The Virginia Racing Commission is hereby created. It shall consist of five members appointed by the Governor and confirmed by a majority of those elected to each house of the General Assembly at the next regular session following any such appointment. Each Commissioner shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment and his continued residency shall be a condition of his tenure in office. The initial appointments shall be as follows: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter, all appointments shall be for terms of five years. Vacancies in the Commission shall be filled for the unexpired term in the manner provided for original appointments. Each Commissioner shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than five years shall thereafter be eligible for reappointment to two consecutive terms of five years each. The Commission shall elect its chairman. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

B. Each member of the Commission shall receive fifty dollars for each day or part thereof spent in the performance of his duties and in addition shall be reimbursed for his reasonable expenses incurred therein.

C. The members of the Commission shall serve at the pleasure of the Governor.

D. The Commission shall establish and maintain a general business office within the Commonwealth for the transaction of its business at a place to be determined by the Commission. The Commission shall meet at such times and places within the Commonwealth as it shall determine. A majority of the Commissioners shall constitute a quorum for the convening of a meeting, but the performance of any duty or the exercise of any power of the Commission shall require a majority of the entire Commission.

§ 59.1-367

Legal representation

The Commission shall be represented in all legal matters by general counsel hired by the Commission; however, the employment of such counsel shall be subject to the approval of the Attorney General. The compensation for such general counsel shall be paid out of the funds appropriated for the administration of the Commission. No member of the General Assembly while serving as a member nor any person associated with such member's law practice shall be employed as general counsel.

§ 59.1-368

Financial interests of Commission members, employees and family members prohibited

No member or employee of the Commission, and no spouse or immediate family member of any such member or employee shall have any financial interest, direct or indirect, in any horse racetrack, satellite facility or operation incident thereto subject to the provisions of this chapter, or in any entity which has submitted an application for a license under Article 2 (§59.1-375 et seq.) of this chapter, or in the operation of any such track or satellite facility within the Commonwealth, or in the operation of any wagering authorized under this chapter, or participate as owner of a horse or otherwise as a contestant in any race subject to the jurisdiction of the Commission, or have any pecuniary interest in the purse or prize contested for in any such race. No member of the Commission and no spouse or immediate family member of a Commission member shall make any contribution to a candidate for office or office holders on the local or state level, or cause a contribution to be made on their behalf.

§ 59.1-369

Powers and duties of the Commission

The Commission shall have all powers and duties necessary to carry out the provisions of this chapter and to exercise the control of horse racing as set forth in §59.1-364. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under the provisions of this chapter including all persons conducting, participating in, or attending any race meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.
2. The Commission, its representatives, and employees shall visit, investigate, and have free access to the office, track, facilities, satellite facilities or other places of business of any license or permit holder, and may compel the production of any of the books, documents, records, or memoranda of any license or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly complied with. In addition, the Commission may require the production of an annual balance sheet and operating statement of any person licensed or granted a permit pursuant to the provisions of this chapter and may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§9-6.14:1 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing must comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of an unlimited license to schedule not less than 150 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days during the first five years of operation based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to six satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission which owns a horse racetrack in the Commonwealth. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

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

6. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

7. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better ensure the proper conduct of horse racing.

8. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission.
9. The Commission may order such audits, in addition to those required by §59.1-394, as it deems necessary and desirable.
10. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this chapter immediately report the complaint to the Attorney General of the Commonwealth and the State Police for appropriate action.
11. The Commission shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds for such withholdings.
12. The Commission, its representatives and employees may, within the enclosure, stable, or other facility related to the conduct of racing, and during regular or usual business hours, subject any (i) permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of personal property, and inspections of other property or premises under the control of such permit holder and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any item, document or record indicative of a violation of any provision of this chapter or Commission regulations may be seized as evidence of such violation. All permit holders consent to the searches and seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and effect until modified by the Commission in accordance with law.

§ 59.1-370

Commission; Executive Secretary; staff; stewards

A. The Commission shall appoint an Executive Secretary and such other employees as it deems essential to perform its duties under this chapter, who shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees may include stewards, chemists, veterinarians, inspectors, accountants, guards and such other employees deemed by the Commission to be necessary for the supervision and the proper conduct of the highest standard of horse racing. Such employees shall be compensated as provided by the Commission.

The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and full record of all proceedings of the Commission and preserve at the Commission's general office all books, documents and papers of the Commission. Neither the Executive Secretary nor the spouse or any member of the immediate family of the Executive Secretary shall make any contributions to a candidate for office or office holder at the local or state level, or cause such a contribution to be made on his behalf.

B. The stewards appointed by the Commission shall act as racing officials to oversee the conduct of (i) horse racing at licensed racetracks and (ii) simulcast horse racing at satellite facilities. The stewards shall possess such authority and perform such duties as the Commission may prescribe or delegate to them.

§ 59.1-370.1

State Racing Operations Fund

A. All moneys and revenues received by the Commission under this chapter shall be placed in a special fund known as the State Racing Operations Fund. Notwithstanding any other provision of law, interest earned from moneys in the State Racing Operations Fund shall accrue to the benefit of such fund.

B. The total costs for the operation and administration of the Virginia Racing Commission shall be funded from the State Racing Operations Fund and shall be in such amount as provided in the general appropriations act.

§ 59.1-371

Fingerprints and background investigations; investigations from other states

A. The Commission shall fingerprint and require a background investigation to include a criminal history record information check of the following persons to be conducted by a representative of a law-enforcement agency of the Commonwealth or federal government: (i) every person licensed to hold race meetings within the Commonwealth of Virginia; (ii) every person who is an officer or director or principal stockholder of a corporation which holds such a license, and every employee of the holder of any such license whose duties relate to the horse racing business in Virginia; (iii) all security personnel of any license holder; (iv) members and employees of the Virginia Racing Commission; (v) all permit holders, owners, trainers, jockeys, apprentices, stable employees, managers, agents, blacksmiths, veterinarians, employees of any license or permit holder; and (vi) any person who actively participates in the racing activities of any license or permit holder.

B. Notwithstanding the provisions of subsection A, the Commission may, by regulation, establish a procedure to recognize a license or permit issued by another state

in which horse racing is authorized when the Commission in its discretion determines that the laws or requirements of the licensing authority for such state governing fingerprinting and background investigations are substantially the same as required under this chapter and Commission regulations, and that the applicant has not been convicted of a misdemeanor or felony as provided in subdivision B 6 of §59.1-389.

§ 59.1-372

Virginia Breeders Fund

There is hereby created within the State Treasury the Virginia Breeders Fund, which Fund, together with the interest thereon, shall be administered in whole or in part by the Commission or by an entity designated by the Commission. The cost of administering and promoting the Fund shall be deducted from the Fund, and the balance shall be disbursed by the Commission or designated entity to the breeders of Virginia-bred horses that win races at race meetings designated by the Commission, to the owners of Virginia sires of Virginia-bred horses that win races at race meetings designated by the Commission, to the owners of Virginia-bred horses that win nonrestricted races at racetracks in Virginia licensed by the Commission and for purses for races restricted to Virginia-bred horses at race meetings designated by the Commission. To assist it in establishing this awards and incentive program to foster the industry of breeding racehorses in Virginia, the Commission shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the Fund program, one member representing the owners and operators of racetracks and one member representing all of the meets sanctioned by the National Steeplechase Association.

§ 59.1-373

Hearing and appeal

Any person aggrieved by a refusal of the Commission to issue any license or permit, the suspension or revocation of a license or permit, the imposition of a fine, or any other action of the Commission, may seek review of such action in accordance with Article 4 of the Administrative Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 4 (§9-6.14:15 et seq.) of the Administrative Process Act.

§ 59.1-374

Injunction

Whenever it appears to the Commission that any person has violated or may violate any provision of this chapter or any regulation or final decision of the

Commission, it may apply to the appropriate circuit court for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

§ 59.1-375

Owner's and operator's license required

No person shall construct, establish or own a horse racetrack or satellite facility where pari-mutuel wagering is permitted, unless he has obtained an owner's license issued by the Commission in accordance with the provisions of this chapter.

No person shall operate pari-mutuel wagering or conduct any race meeting at which wagering is permitted with his knowledge or acquiescence, unless he has obtained an operator's license issued by the Commission in accordance with the provisions of this chapter.

No person to whom an owner's or operator's license has been issued nor any officer, director, partner, or spouse or immediate family member thereof shall make any contribution to any candidate for public office or public office holder at the local or state level.

No license issued under the provisions of this chapter shall be transferable.

§ 59.1-376

Limited licenses; transfer of meet; taxation; authority to issue; limitations

A. Notwithstanding the provisions of §59.1-375 or §59.1-378 but subject to such regulations and criteria as it may prescribe, the Commission is authorized to issue limited licenses, provided such licenses shall permit any holder to conduct a race meeting or meetings for a period not to exceed fourteen days in any calendar year.

B. The Commission may at any time, in its discretion, authorize any organization or association licensed under this section to transfer its race meeting or meetings from its own track or place for holding races, to the track or place for holding races of any other organization or association licensed under this chapter upon the payment of any and all appropriate license fees. No such authority to transfer shall be granted without the express consent of the organization or association owning or leasing the track to which such transfer is made.

C. For any such meeting the licensee shall retain and pay from the pool the tax as provided in §59.1-392.

D. No person to whom a limited license has been issued nor any officer, director, partner, or spouse or immediate family member thereof shall make any contribution

to any candidate for public office or public office holder at the local or state level.

§ 59.1-377

Application for owner's license

A. Any person desiring to construct or own a horse racetrack or satellite facility where pari-mutuel wagering is permitted shall file with the Commission an application for an owner's license. Such application shall be filed at the time and place prescribed by the Commission, and shall be in such form and contain such information as prescribed by the Commission, including but not limited to the following:

1. The name and address of such person; if a corporation, the state of its incorporation, the full name and address of each officer and director thereof, and if a foreign corporation, whether it is qualified to do business in this Commonwealth; if a partnership or joint venture, the name and address of each officer thereof;
2. The name and address of each stockholder or member of such corporation, or each partner of such partnership or joint venture, and of each person who has contracted for a pecuniary interest in the applicant or the enclosure where race meetings or pari-mutuel wagering will be conducted, whether such interest is an ownership or a security interest, and the nature and value of such interest, and the name and address of each person who has agreed to lend money to the applicant;
3. Such information as the Commission deems appropriate regarding the character, background and responsibility of the applicant and the members, partners, stockholders, officers and directors of the applicant;
4. The location and description of the racetrack, place or enclosure where such person proposes to hold such meetings or wagering, including the name of any county, city or town in which any property of such track or satellite facility is or will be located. The Commission shall require such information about the enclosure and location of such track as it deems necessary and appropriate to determine whether they comply with the minimum standards provided in this chapter, and whether the conduct of a race meeting or pari-mutuel wagering at such location would be in the best interests of the people of the Commonwealth;
5. Such information relating to the financial responsibility of the applicant as the Commission deems appropriate;
6. If any of the facilities necessary for the conduct of racing or pari-mutuel wagering are to be leased, the terms of such lease; and
7. Any other information which the Commission in its discretion deems appropriate.

B. Any application filed hereunder shall be verified by the oath or affirmation of an officer of the applicant, and shall be accompanied by a nonrefundable application fee as determined by the Commission.

C. Any person who knowingly makes a false statement to the Commission for the purposes of obtaining a license under this article shall be guilty of a Class 4 felony.

§ 59.1-378

Issuance of owner's license

A. The Commission shall consider all applications for an owner's license and may grant a valid owner's license to applicants who meet the criteria set forth in this chapter and established by the Commission. The Commission shall deny a license to any applicant, unless it finds that the applicant's facilities are or will be appropriate for the finest quality of racing, and meet or will meet the minimum standards that any track provided for standard breed racing be at least five-eighths of a mile, that any dirt track provided for flat racing be at least one mile, and that any track provided for flat or jump racing on the turf be at least seven-eighths of a mile.

B. The Commission shall deny a license to an applicant if it finds that for any reason the issuance of a license to the applicant would not be in the interest of the people of the Commonwealth or the horse racing industry in the Commonwealth, or would reflect adversely on the honesty and integrity of the horse racing industry in the Commonwealth, or that the applicant, or any officer, partner, principal stockholder, or director of the applicant:

1. Has knowingly made a false statement of material fact or has deliberately failed to disclose any information requested;
2. Is or has been found guilty of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any horse racing in this or any other state, or has been convicted of a felony;
3. Has at any time knowingly failed to comply with the provisions of this chapter or of any regulations of the Commission;
4. Has had a license or permit to hold or conduct a horse race meeting denied for just cause, suspended, or revoked in any other state or country;
5. Has legally defaulted in the payment of any obligation or debt due to the Commonwealth;
6. Has constructed or caused to be constructed a racetrack or satellite facility for which a license was required under §59.1-377 hereof without obtaining such

license, or has deviated substantially, without the permission of the Commission, from the plans and specifications submitted to the Commission; or

7. Is not qualified to do business in Virginia or is not subject to the jurisdiction of the courts of this Commonwealth.

C. The Commission shall deny a license to any applicant unless it finds:

1. That, if the corporation is a stock corporation, that such stock is fully paid and nonassessable, has been subscribed and paid for only in cash or property to the exclusion of past services, and, if the corporation is a nonstock corporation, that there are at least twenty members;

2. That all principal stockholders or members have submitted to the jurisdiction of the Virginia courts, and all nonresident principal stockholders or members have designated the Executive Secretary of the Commission as their agent for receipt of process;

3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder or require the resignation of any member who is or becomes unqualified for such position under § 59.1-379; and

4. That the applicant meets the criteria established by the Commission for the granting of an owner's license.

§ 59.1-378.1

Licensing of owners or operators of certain pari-mutuel facilities

A. Notwithstanding the provisions of §59.1-391, the Commission may grant a license, for a duration to be determined by the Commission, to the owner or operator of a steeplechase facility for the purpose of conducting pari-mutuel wagering at steeplechase race meetings for a period not to exceed fourteen days in any calendar year, provided that, prior to making application for such license, (i) the steeplechase facility has been sanctioned by the National Steeplechase Association and (ii) the owner or operator of such facility has been granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code. For purposes of this section, "steeplechase facility" means a turf racecourse constructed over natural ground which is utilized primarily for races where horses jump over fences.

B. In deciding whether to grant any license pursuant to this section, the Commission shall consider (i) the results of, circumstances surrounding, and issues involved in any referendum conducted under the provisions of §59.1-391 and (ii) whether the Commission had previously granted a license to such facility, owner, or operator.

C. In no event shall the Commission issue more than twelve licenses in a calendar year pursuant to this section.

§ 59.1-379

Refusal of owner's license

No owner's license or renewal thereof shall be granted to any corporation if the Commission finds that any principal stockholder of such stock corporation, or any member of such nonstock corporation:

1. Is or has been guilty of any illegal, corrupt or fraudulent act, conduct or practice in connection with horse racing in this or any other state, or has knowingly failed to comply with the provisions of this chapter or Commission regulations;
2. Has had a license or permit to hold or conduct a race meeting denied for cause, suspended or revoked in any other state or country; or
3. Has at any time during the previous five years knowingly failed to comply with the provisions of this chapter or any Commission regulations.

§ 59.1-380

Duration, form of owner's license; bond

A license issued under §59.1-378 shall be for the period set by the Commission, not to be less than twenty years, but shall be reviewed annually. The Commission shall designate on the license the duration of such license, the location of such track or satellite facility or proposed track or satellite facility and such other information as it deems proper. The Commission shall establish criteria and procedures for license renewal.

The Commission shall require a bond with surety acceptable to it, and in an amount determined by it, to be sufficient to cover any indebtedness incurred by the licensee to the Commonwealth.

§ 59.1-381

Application for operator's license

A. Any person desiring to hold a race meeting or operate a satellite facility shall file with the Commission an application for an operator's license. Such application may be made in conjunction with an application for an owner's license, if appropriate. It shall be filed at the time and place prescribed by the Commission and contain such information as prescribed by the Commission, including all information prescribed for an owner's license under §59.1-377 and, in addition, the date the

applicant wishes to conduct a race meeting.

B. Any application filed hereunder shall be verified by the oath or affirmation of an officer of the applicant and shall be accompanied by a nonrefundable application fee as determined by the Commission.

§ 59.1-382

Issuance of operator's license

The Commission shall promptly consider any application for an operator's license and grant a valid operator's license to applicants who meet the criteria set forth in this chapter and established by the Commission. The Commission shall deny a license to any applicant, unless it finds:

1. That such applicant is a corporation organized under Title 13.1 or comparable law of another state, and qualified to do business in Virginia;
2. That, if the corporation is a stock corporation, all principal stockholders have submitted to the jurisdiction of the Virginia courts and all nonresident principal stockholders have designated the Executive Secretary of the Commission as their agent for process, and further, that an application shall also contain information as required by § 59.1-377;
3. That the applicant's articles of incorporation provide that the corporation may, on vote of a majority of the stockholders or members, purchase at fair market value the entire membership interest of any stockholder, or require the resignation of any member, who is or becomes unqualified for such position under § 59.1-379;
4. That the applicant would be qualified for a license to own such horse racetrack or satellite facility under the provisions of §§ 59.1-378 and 59.1-379;
5. That the applicant has made provisions satisfactory to the Commission for the detection and prosecution of any illegal, corrupt or fraudulent act, practice or conduct in connection with any race meeting or pari-mutuel wagering, that the applicant has made provision for membership in the Thoroughbred Racing Association or other equivalent applicable association, and that the applicant shall utilize the services of the Thoroughbred Racing Protective Bureau or any other protective agency acceptable to the Virginia Racing Commission;
6. That the applicant has met the criteria established by the Commission for the granting of an operator's license.

§ 59.1-383

Duration, form of operator's license; bond

A license issued under §59.1-382 shall be for a period of twenty years from the date of issuance, but shall be reviewed annually. The Commission may, as it deems appropriate, change at the beginning of any year the dates on which the licensee is authorized to conduct a race meeting or pari-mutuel wagering. An applicant for renewal of a license may omit any information which in the opinion of the Commission is already available to it. The Commission shall establish criteria and procedures for license renewal.

Any license issued under §59.1-382 shall designate on its face the type or types of horse racing or pari-mutuel wagering for which it is issued, the location of the track or satellite facility where such meeting or wagering is to be conducted, the period during which such license is in effect and such other information as the Commission deems proper.

The Commission shall require a bond with surety acceptable to it, and in an amount determined by it to be sufficient to cover any indebtedness incurred by such licensee during the days allotted for racing.

§ 59.1-384

Denial of license final

The denial of an owner's or operator's license by the Commission shall be final unless appealed under §59.1-373.

§ 59.1-385

Suspension or revocation of license

A. After a hearing with fifteen days' notice the Commission may suspend or revoke any license, or fine the holder thereof a sum not to exceed \$100,000, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with or has been violated. The Commission may revoke a license if it finds that facts not known by it at the time it considered the application indicate that such license should not have been issued.

B. The Commission shall revoke any license issued under §59.1-382 for the operation of a satellite facility if the licensee, within one year of issuance of the satellite facility license, fails to conduct live racing at a racetrack licensed pursuant to §59.1-382.

C. Deliberations of the Commission hereunder shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§2.1-340 et seq.). If any such license is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless appealed

in accordance with §59.1-373. Suspension or revocation of a license by the Commission for any violation shall not preclude criminal liability for such violation.

§ 59.1-386

Acquisition of interest in licensee

The Commission shall require any person desiring to become a partner, member or principal stockholder of any licensee to apply to the Commission for approval thereof and may demand such information of the applicant as it finds necessary. The Commission shall consider such application forthwith and if in its judgment the acquisition by the applicant would be detrimental to the public interest, to the honesty and integrity of racing, or to its reputation, the application shall be denied. The Commission shall act on the application within sixty days of receipt.

§ 59.1-387

Permit required

No person shall participate in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon, including but not limited to as a horse owner, trainer, jockey, exercise rider, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other positions the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia, unless such person possesses a permit therefor from the Commission, and complies with the provisions of this chapter and all Commission regulations. No permit issued under the provisions of this chapter shall be transferable.

§ 59.1-388

Application for permit

A. Any person desiring to obtain a permit as required by this chapter shall make application therefor on a form prescribed by the Commission. The application shall be accompanied by a fee prescribed by the Commission.

B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant.

§ 59.1-389

Consideration of application

A. The Commission shall promptly consider any application for a permit and issue or deny such permit based on the information in the application and all other

information before it, including any investigation it deems appropriate. If an application for a permit is approved, the Commission shall issue a permit, which shall contain such information as the Commission deems appropriate. Such permit shall be valid for one year; however, the permit of a licensee's employee shall expire automatically when such permit holder leaves the employment of the licensee or at the end of one year, whichever occurs first. The licensee shall promptly notify the Commission when a permit holder leaves the employment of the licensee. The Commission shall establish criteria and procedures for permit renewal.

B. The Commission shall deny the application and refuse to issue the permit, which denial shall be final unless an appeal is taken under §59.1-373, if it finds that the issuance of such permit to such applicant would not be in the interests of the people of the Commonwealth, or the horse racing industry of the Commonwealth, or would reflect on the honesty and integrity of the horse racing industry in the Commonwealth, or that the applicant:

1. Has knowingly made a false statement of a material fact in the application, or has deliberately failed to disclose any information requested by the Commission;
2. Is or has been found guilty of any corrupt or fraudulent practice or conduct in connection with horse racing in this or any other state;
3. Has knowingly failed to comply with the provisions of this chapter or the regulations of the Commission;
4. Has had a permit to engage in activity related to horse racing denied for just cause, suspended or revoked in any other state, and such denial, suspension or revocation is still in effect;
5. Is unqualified to perform the duties required for the permit sought; or
6. Has been convicted of a misdemeanor or felony involving unlawful conduct or wagering, fraudulent use of a credential, unlawful transmission of information, touting, bribery, or administration or possession of drugs or any felony considered by the Commission to be detrimental to horse racing in the Commonwealth.

C. The Commission may refuse to issue the permit if for any reason it feels the granting of such permit is not consistent with the provisions of this chapter or its responsibilities hereunder.

§ 59.1-390

Suspension or revocation of permit; fine

A. The Commission may suspend or revoke a permit issued under this chapter or fine the holder of such permit a sum not to exceed \$10,000, after a hearing for

which proper notice has been given to the permittee, in any case where it has reason to believe that any provision of this chapter, or any regulation or condition of the Commission, has not been complied with, or has been violated. The Commission may revoke such permit, after such hearing, if it finds that facts not known by it at the time it was considering the application indicate that such permit should not have been issued. Deliberations of the Commission under this section shall be conducted pursuant to the provisions of the Virginia Freedom of Information Act (§2.1-340 et seq.). If any permit is suspended or revoked, the Commission shall state its reasons for doing so, which shall be entered of record. Such action shall be final unless an appeal is taken in accordance with §59.1-373. Suspension or revocation of a permit by the Commission for any violation shall not preclude criminal liability for such violation.

B. The Commission, acting by and through its stewards, or at a meeting at which a quorum is present, may summarily suspend the permit of a person for a period of not more than ninety days pending a hearing and final determination by the Commission or its stewards, if the Commission or its stewards determine the protection of the integrity of horse racing requires emergency action. The Commission or its stewards shall (i) schedule a hearing within fourteen business days after the permit is summarily suspended and (ii) notify the permit holder, not less than five business days before the hearing, of the date, time and place of the hearing.

§ 59.1-391

Local referendum required

The Commission shall not grant any initial license to construct, establish, operate or own a racetrack or satellite facility until a referendum approving the question is held in each county or city in which such track or satellite facility is to be located, in the following manner:

1. A petition, signed by five percent of the qualified voters of such county or city, shall be filed with the circuit court of such county or city, asking that a referendum be held on the question, "Shall pari-mutuel wagering be permitted in name of such county or city, at a licensed racetrack in accordance with Chapter 29 (§59.1-364 et seq.) of Title 59.1 of the Code of Virginia?" In addition, or in the alternative, such petition may ask that a referendum be held on the question, "Shall pari-mutuel wagering be permitted in ... (the name of such county or city) at satellite facilities in accordance with Chapter 29 (§59.1-364 et seq.) of Title 59.1 of the Code of Virginia?"
2. Following the filing of such petition, the court shall, by order of record entered in accordance with §§24.2-684.1, require the regular election officers of such city or county to cause a special election to be held to take the sense of the qualified voters on the question. Such election shall be on a day designated by order of such

court, but shall not be later than the next general election unless such general election is within sixty days of the date of the entry of such order, nor shall it be held on a date designated as a primary election.

3. The clerk of such court of record of such city or county shall publish notice of such election in a newspaper of general circulation in such city or county once a week for three consecutive weeks prior to such election.

4. The regular election officers of such city or county shall open the polls at the various voting places in such city or county on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot which shall be prepared by the electoral board of the city or county and on which shall be printed either or both of the following questions:

"Shall pari-mutuel wagering be permitted in ... at a licensed racetrack in accordance with Chapter 29 (§59.1-364 et seq.) of Title 59.1 of the Code of Virginia?

Yes

No"

"Shall pari-mutuel wagering be permitted in ... at satellite facilities in accordance with Chapter 29 (§59.1-364 et seq.) of Title 59.1 of the Code of Virginia?

Yes

No"

In the blank shall be inserted the name of the city or county in which such election is held. Any voter desiring to vote "Yes" shall mark a check (✓) mark or a cross (x or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark a check (✓) mark or a cross (x or +) mark or a line (-) in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

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

No such referendum as described above shall be held more often than every three years in the same county or city.

A subsequent local referendum shall be required if a license has not been granted by the Commission within five years of the court order proclaiming the results of the election.

§ 59.1-392

(Effective July 1, 1999) Percentage retained; tax

A. Any person holding a operator's license to operate a horse racetrack or satellite facility in the Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax, and one-quarter percent to the locality in which the racetrack is located. The remainder of the eighteen percent retainage shall be paid as provided in subsection D.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the eighteen percent retainage shall be paid as provided in subsection D.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;
2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund ;

4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Equine Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the eighteen percent retainage shall be paid as appropriate under subsection B or C.

E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the twenty-two percent retainage shall be paid as provided in subsection G.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the locality in which the racetrack is located. The remainder of the twenty-two percent retainage shall be paid as provided in subsection G.

G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;
2. Nine percent, and all of the breakage and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

5. Five one-hundredths percent to the Virginia Equine Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the twenty-two percent retainage shall be paid as appropriate under subsection E or F.

H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions outside the Commonwealth, the licensee may, with the approval of the Commission the licensee may commingle pools with the racetrack where the transmission emanates or establish separate pools for wagering within the Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the racetrack is located.

J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is located.

K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund;
2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
4. Five one-hundredths percent to the Virginia Horse Industry Board.

L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving

wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the Virginia locality in which the racetrack is located.

M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the Virginia locality in which the racetrack is located.

N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund ;
2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
4. Five one-hundredths percent to the Virginia Horse Industry Board.

O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for license tax purposes under Chapter 37 (§58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel wagering pools and license taxes authorized by this section.

P. All payments by the licensee to the Commonwealth or any locality shall be made within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia Breeders Fund shall be made to the Commission within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse Industry Board shall be made by the first day of each quarter of the calendar year. All payments made under this section shall be used in support of the policy of the Commonwealth to sustain and promote the growth of a native industry.

Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay under this section to the locality in which the satellite facility is located shall be prorated in equal shares among those localities.

R. Any contractual agreement between a licensee and other entities concerning the distribution of the remaining portion of the retainage under subsections I through N shall be subject to the approval of the Commission.

§ 59.1-392

(Effective July 1, 1999) Percentage retained; tax

A. Any person holding a operator's license to operate a horse racetrack or satellite facility in the Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax, and one-quarter percent to the locality in which the racetrack is located. The remainder of the eighteen percent retainage shall be paid as provided in subsection D.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the eighteen percent retainage shall be paid as provided in subsection D.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall retain an amount not to exceed eighteen percent of such pool and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;
2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund ;

4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Equine Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the eighteen percent retainage shall be paid as appropriate under subsection B or C.

E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the twenty-two percent retainage shall be paid as provided in subsection G.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the locality in which the racetrack is located. The remainder of the twenty-two percent retainage shall be paid as provided in subsection G.

G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall retain an amount not to exceed twenty-two percent of such pool and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;
2. Nine percent, and all of the breakage and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;

5. Five one-hundredths percent to the Virginia Equine Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the twenty-two percent retainage shall be paid as appropriate under subsection E or F.

H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions outside the Commonwealth, the licensee may, with the approval of the Commission the licensee may commingle pools with the racetrack where the transmission emanates or establish separate pools for wagering within the Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the racetrack is located.

J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is located.

K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund;
2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
4. Five one-hundredths percent to the Virginia Horse Industry Board.

L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving

wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the Virginia locality in which the racetrack is located.

M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the Virginia locality in which the racetrack is located.

N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund ;
2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
3. Five one-hundredths percent to the Virginia Equine Center Foundation; and
4. Five one-hundredths percent to the Virginia Horse Industry Board.

O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for license tax purposes under Chapter 37 (§58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel wagering pools and license taxes authorized by this section.

P. All payments by the licensee to the Commonwealth or any locality shall be made within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia Breeders Fund shall be made to the Commission within five days from the date on which such wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional College of Veterinary Medicine, the Virginia Equine Center Foundation, and the Virginia Horse Industry Board shall be made by the first day of each quarter of the calendar year. All payments made under this section shall be used in support of the policy of the Commonwealth to sustain and promote the growth of a native industry.

Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay under this section to the locality in which the satellite facility is located shall be prorated in equal shares among those localities.

R. Any contractual agreement between a licensee and other entities concerning the distribution of the remaining portion of the retainage under subsections I through N shall be subject to the approval of the Commission.

§ 59.1-393

Admissions tax

The governing body of any county or city may by ordinance impose a tax on any licensee hereunder to conduct a race meeting at a track located solely in such county or city of twenty-five cents on the admission of each person on each day except those holding a valid permit under this chapter and actually employed at such track in the capacity for which such permit was issued. The licensee may collect such amount from the ticket holder in addition to the amount charged for the ticket of admission.

If such track or its enclosure is located in two or in three localities, each locality may impose a tax hereunder of twelve and one-half cents or eight and one-third cents per person, respectively.

Gross receipts for license tax purposes under Chapter 37 of Title 58.1 shall not include the admissions tax imposed under this section.

§ 59.1-394

Audit required

A regular post-audit shall be conducted of all accounts and transactions of the Commission. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Commission shall be conducted by the Auditor of Public Accounts on or before September 30 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Commission.

§ 59.1-395

Unlawful conduct of wagering

Any person not licensed hereunder who conducts pari-mutuel wagering, or horse racing on which wagering is conducted with his knowledge or consent, shall be guilty of a Class 4 felony.

§ 59.1-396

Fraudulent use of credential

Any person other than the lawful holder thereof who has in his possession any credential, license or permit issued by the Commission, or a forged or simulated credential, license or permit of the Commission, and who uses such credential, license or permit for the purpose of misrepresentation, fraud or touting is guilty of a Class 4 felony.

Any credential, license or permit issued by the Commission, if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties on a racetrack or within a satellite facility, shall be automatically revoked whether so used on or off a racetrack or satellite facility.

§ 59.1-397

Unlawful transmission of information

Any person who knowingly transmits information as to the progress or results of a horse race, or information as to wagers, betting odds, post or off times, or jockey changes in any race by any means whatsoever for the purposes of carrying on illegal gambling operations as defined in §18.2-325, or to a person engaged in illegal gambling operations shall be guilty of a Class 4 felony.

This section shall not be construed to prohibit a newspaper from printing such results or information as news, or any television or radio station from telecasting or broadcasting such results or information as news. This section shall not be so construed as to place in jeopardy any common carrier or its agents performing operations within the scope of a public franchise, or any gambling operation authorized by law.

§ 59.1-398

Touting

Any person, who knowingly and designedly by false representation attempts to, or does persuade, procure or cause another person to wager on a horse in a race to be run in this Commonwealth or elsewhere, and upon which money is wagered in this Commonwealth, and who asks or demands compensation as a reward for information or purported information given in such case, shall be guilty of a Class 1 misdemeanor.

§ 59.1-399

Bribing of a jockey, driver or other participant

Any person who gives, promises or offers to any jockey, driver, groom or any person participating in any race meeting, including owners of racetracks and their

employees, stewards, trainers, judges, starters and special policemen, any valuable thing with intent to influence him to attempt to lose or cause to be lost a horse race in which such person is taking part or expects to take part, or has any duty or connection, or who, being either jockey, driver, or groom or participant in a race meeting, solicits or accepts any valuable thing to influence him to lose or cause to be lost a horse race in which he is taking part, or expects to take part, or has any duty or connection, shall be guilty of a Class 4 felony.

§ 59.1-400

Prohibited acts, administration of drugs, etc.; penalty

Any person who, with the intent to defraud, acts to alter the outcome of a race by (i) the administration of any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Virginia Racing Commission, or (ii) the use of any device, electrical or otherwise, except those specifically permitted by the regulations of the Virginia Racing Commission, shall be guilty of a Class 4 felony.

Any person who, with the intent to defraud, influences or conspires with another to alter the outcome of a race by (i) the administration of any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Virginia Racing Commission, or (ii) the use of any device, electrical or otherwise, except those specifically permitted by the regulations of the Virginia Racing Commission, shall be guilty of a Class 4 felony.

Any person who (i) administers any substance foreign to the natural horse, except those substances specifically permitted by the regulations of the Virginia Racing Commission, when the horse is entered to start, or (ii) at any time, exposes any substance foreign to the natural horse with the intent of impeding or increasing the speed, endurance, health, or condition of a horse, shall be guilty of a Class 4 felony.

§ 59.1-401

Possessing drugs

The possession or transportation of any drug except those permitted by regulations of the Commission within the racing enclosure is prohibited except upon a bona fide veterinarian's prescription with complete statement of uses and purposes on the container. A copy of such prescription shall be filed with the stewards. Any person knowingly violating the provisions of this section relating to the legal possession of drugs shall be guilty of a Class 1 misdemeanor. The provisions of the Drug Control Act (§54.1-3400 et seq.) shall apply in situations where drugs regulated by that Act are within the racing enclosure.

§ 59.1-402

Racing under false name; penalty

Any person who knowingly enters or races any horse in any running or harness race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association or who knowingly instigates, engages in, or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club, the United States Trotting Association, the American Quarter Horse Association, or other applicable association, is guilty of a Class 4 felony.

§ 59.1-403

Minors prohibited

No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is eighteen years of age or older. No person shall accept any wager from a minor. No person shall be admitted into a satellite facility if such person is under eighteen years of age unless accompanied by one of his parents or his legal guardian. Violation of this section shall be a Class 1 misdemeanor.

§ 59.1-404

Repealed by Acts 1991, c. 591.

§ 59.1-405

Conspiracies and attempts to commit violations

A. Any person who conspires, confederates or combines with another, either within or without this Commonwealth, to commit a felony prohibited by this chapter shall be guilty of a Class 4 felony.

B. Any person who attempts to commit any act prohibited by this article shall be guilty of a criminal offense and punished as provided in either §§18.2-26, 18.2-27 or §18.2-28, as appropriate.

CHAPTER 29.1. GREYHOUND RACING

§ 59.1-405.1

Greyhound racing and simulcasting prohibited; penalty

A. No person shall hold, conduct or operate any greyhound races for public exhibition in the Commonwealth for monetary remuneration.

B. No person shall transmit or receive interstate or intrastate simulcasting of greyhound races for commercial purposes in the Commonwealth.

C. Any person who violates the provisions of this chapter shall be guilty of a Class 4 felony.