

HOUSE BILL NO. 1617

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 16, 2023)

(Patron Prior to Substitute--Delegate Fowler)

A BILL to amend and reenact §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, and 58.1-4119 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048, relating to sports betting and casino gaming; Gaming Regulatory Fund established.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4032, 58.1-4033, 58.1-4034, 58.1-4108, 58.1-4114, and 58.1-4119 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 40 of Title 58.1 a section numbered 58.1-4048 as follows:

§ 58.1-4032. Application for a sports betting permit; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a nonrefundable fee of \$50,000 for each principal at the time of filing to defray the costs associated with the background investigations conducted by the Department. If the reasonable costs of the investigation exceed the application fee, the applicant shall pay the additional amount to the Department. The Board may establish regulations calculating the reasonable costs to the Department in performing its functions under this article and allocating such costs to the applicants for licensure at the time of filing. The fees for each principal and any additional investigation costs paid to the Department shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

27 2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's
28 history and reputation of integrity and compliance;

29 3. The applicant's proposed internal controls, including controls to ensure that no prohibited or
30 voluntarily excluded person will be able to participate in sports betting;

31 4. The applicant's history of working to prevent compulsive gambling, including training programs
32 for its employees;

33 5. If applicable, any supporting documentation necessary to establish eligibility for substantial and
34 preferred consideration pursuant to the provisions of this section;

35 6. The applicant's proposed procedures to detect and report suspicious or illegal betting activity;
36 and

37 7. Any other information the Director deems necessary.

38 C. The Department shall conduct a background investigation on the applicant. The background
39 investigation shall include a credit history check, a tax record check, and a criminal history records check.

40 D. 1. The Director shall not issue any permit pursuant to this article until the Board has established
41 a consumer protection program and published a consumer protection bill of rights pursuant to the
42 provisions of subdivision A 14 of § 58.1-4007.

43 2. The Director shall issue no fewer than four and no more than 12 permits pursuant to this section;
44 however, if an insufficient number of applicants apply for the Director to satisfy the minimum, this
45 provision shall not be interpreted to direct the Director to issue a permit to an unqualified applicant. A
46 permit shall not count toward the minimum or maximum if it (i) is issued pursuant to subdivision 4 or 5
47 to a major league sports franchise or to the operator of a facility; (ii) is issued pursuant to subdivision 6 to
48 an applicant that operates or intends to operate a casino gaming establishment; or (iii) is revoked, expires,
49 or otherwise becomes not effective.

50 3. In issuing permits to operate sports betting platforms and sports betting facilities, the Director
51 shall consider the following factors:

52 a. The contents of the applicant's application as required by subsection B;

53 b. The extent to which the applicant demonstrates past experience, financial viability, compliance
54 with applicable laws and regulations, and success with sports betting operations in other states;

55 c. The extent to which the applicant will be able to meet the duties of a permit holder, as specified
56 in § 58.1-4034;

57 d. Whether the applicant has demonstrated to the Department that it has made serious, good-faith
58 efforts to solicit and interview a reasonable number of investors that are minority individuals, as defined
59 in § 2.2-1604;

60 e. The amount of adjusted gross revenue and associated tax revenue that an applicant is expected
61 to generate;

62 f. The effect of issuing an additional permit on the amount of gross revenue and associated tax
63 revenue generated by all existing permit holders, considered in the aggregate; and

64 g. Any other factor the Director considers relevant.

65 4. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall
66 give substantial and preferred consideration to any applicant that is a major league sports franchise
67 headquartered in the Commonwealth that remitted personal state income tax withholdings based on
68 taxable wages in the Commonwealth in excess of \$200 million for the 2019 taxable year. Any permit
69 holder granted a permit pursuant to this subdivision shall receive substantial and preferred consideration
70 of its first, second, and third applications for renewal pursuant to the provisions of § 58.1-4033; however,
71 such permit holder shall not receive substantial and preferred consideration of its fourth and subsequent
72 applications for renewal. Any permit granted pursuant to this subdivision shall expire if the permit holder
73 ceases to maintain its headquarters in the Commonwealth.

74 5. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall
75 give substantial and preferred consideration to any applicant that is a major league sports franchise that
76 plays five or more regular season games per year at a facility in the Commonwealth or that is the operator
77 of a facility in the Commonwealth where a major league sports franchise plays five or more regular season
78 games per year; however, the Director shall give such substantial and preferred consideration only if the
79 applicant (i) is headquartered in the Commonwealth, (ii) has an annualized payroll for taxable wages in

80 the Commonwealth that is in excess of \$10 million over the 90-day period prior to the application date,
81 and (iii) the total number of individuals working at the facility in the Commonwealth where the major
82 league sports franchise plays five or more regular season games is in excess of 100.

83 6. If casino gaming is authorized under the laws of the Commonwealth, then in issuing permits to
84 operate sports betting platforms and sports betting facilities, the Director shall give substantial and
85 preferred consideration to any applicant that (i) has made or intends to make a capital investment of at
86 least \$300 million in a casino gaming establishment, including the value of the real property upon which
87 such establishment is located and all furnishings, fixtures, and other improvements; (ii) has had its name
88 submitted as a preferred casino gaming operator to the Department by an eligible host city; and (iii) has
89 been certified by the Department to proceed to a local referendum on whether casino gaming will be
90 allowed in the locality in which the applicant intends to operate a casino gaming establishment.

91 7. In issuing permits to operate sports betting platforms prior to July 1, 2025, the Director shall
92 give substantial and preferred consideration to any applicant that demonstrates in its application (i) a
93 description of any equity interest owned by minority individuals or minority-owned businesses, (ii) a
94 detailed plan to achieve increased minority equity investment, (iii) a description of all efforts made to seek
95 equity investment from minority individuals or minority-owned businesses, or (iv) a plan detailing efforts
96 made to solicit participation of minority individuals or minority-owned businesses in the applicant's
97 purchase of goods and services related to the sports betting platform or to provide assistance to a
98 historically disadvantaged community or historically black colleges and universities located within the
99 Commonwealth. As used in this subdivision, "historically black colleges and universities," "minority
100 individual," and "minority-owned business" mean the same as those terms are defined in § 2.2-1604.

101 8. In a manner as may be required by Board regulation, any entity that applies pursuant to
102 subdivision 4, 5, 6, or 7 may demonstrate compliance with the requirements of an application, the duties
103 of a permit holder, and any other provision of this article through the use of a partner, subcontractor, or
104 other affiliate of the applicant.

105 E. The Director shall make a determination on an initial application for a sports betting permit
106 within 90 days of receipt. The Director's action shall be final unless appealed in accordance with § 58.1-
107 4007.

108 F. The following shall be grounds for denial of a permit or renewal of a permit:

109 1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit
110 holder as described in subsection A of § 58.1-4034;

111 2. The Director reasonably believes that the applicant or its directors lack good character, honesty,
112 or integrity;

113 3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation,
114 or associations are likely to (i) pose a threat to the public interest, (ii) impede the regulation of sports
115 betting, or (iii) promote unfair or illegal activities in the conduct of sports betting;

116 4. The applicant or its directors knowingly make a false statement of material fact or deliberately
117 fail to disclose information requested by the Director;

118 5. The applicant or its directors knowingly fail to comply with the provisions of this article or any
119 requirements of the Director;

120 6. The applicant or its directors were convicted of a felony, a crime of moral turpitude, or any
121 criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date
122 of the permit application;

123 7. The applicant's license, registration, or permit to conduct a sports betting operation issued by
124 any other jurisdiction has been suspended or revoked;

125 8. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

126 9. The applicant's application is incomplete.

127 G. The Director shall have the discretion to waive any of the grounds for denial of a permit or
128 renewal of a permit if he determines that denial would limit the number of applicants or permit holders in
129 a manner contrary to the best interests of the Commonwealth.

130 H. Prior to issuance of a permit, each permit holder shall either (i) be bonded by a surety company
131 entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the

132 regulations of the Board or (ii) provide other surety, letter of credit, or reserve as may be satisfactory to
133 the Director. Such surety shall be prescribed by Board regulations and shall not exceed a reasonable
134 amount.

135 I. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
136 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any
137 application pursuant to this article is guilty of a Class 1 misdemeanor.

138 J. In addition to the fee required pursuant to subdivision A 2, any applicant to which the
139 Department issues a permit shall pay a nonrefundable fee of \$250,000 to the Department prior to the
140 issuance of such permit. Such fees shall be deposited by the Department in the Gaming Regulatory Fund
141 established pursuant to § 58.1-4048.

142 **§ 58.1-4033. Renewals of permits.**

143 A. A permit issued pursuant to § 58.1-4032 shall be valid for three years from the date issued.

144 B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal
145 application, on forms prescribed by the Director, with a nonrefundable renewal fee of \$200,000. Such fees
146 shall be deposited into the Gaming Regulatory Fund established pursuant to § 58.1-4048.

147 C. The Director may deny a permit renewal if he finds grounds for denial as described in subsection
148 F of § 58.1-4032. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

149 D. The Director shall make a determination on an application for a renewal of a sports betting
150 permit within 60 days of receipt. The Director's action shall be final unless appealed in accordance with §
151 58.1-4007.

152 **§ 58.1-4034. Duties of permit holders.**

153 A. A permit holder shall ensure that its sports betting operation takes reasonable measures to:

154 1. Ensure that only persons physically located in Virginia are able to place bets through its sports
155 betting platform, if applicable;

156 2. Protect the confidential information of bettors using its sports betting platform or placing bets
157 at its sports betting facility;

158 3. Prevent betting on events that are prohibited by § 58.1-4039, underage betting as prohibited by
159 § 58.1-4040, and bets by persons who are prohibited from sports betting by § 58.1-4041;

160 4. Allow persons to restrict themselves from placing bets with the permit holder, including sharing,
161 at the person's request, his request for self-exclusion with the Department for the sole purpose of
162 disseminating the request to other permit holders;

163 5. Establish procedures to detect suspicious or illegal betting activity, including measures to
164 immediately report such activity to the Department;

165 6. Provide for the issuance of applicable tax forms to persons who meet the reporting threshold for
166 income from sports betting; and

167 7. If applicable, allow sports bettors to establish and fund sports betting accounts over the Internet
168 on a sports betting platform, which may be funded through methods including automated clearing house
169 payments, credit cards, debit cards, wire transfers, or any other method approved by the Director under §
170 58.1-4031.

171 B. A permit holder shall maintain records on:

172 1. All bets, including the bettor's personal information, the amount and type of bet, the time and
173 location of the bet, and the outcome of the bet; and

174 2. Suspicious or illegal betting activity.

175 C. A permit holder shall disclose the records described in subsection B to the Department upon
176 request and shall maintain such records for at least three years after the related sports event occurs.

177 D. 1. If a sports governing body notifies the Department that real-time information-sharing for bets
178 placed on its sporting events is necessary and desirable, permit holders shall, as soon as is commercially
179 reasonable, share the information required to be retained pursuant to subdivision B 1 of § 58.1-4034 with
180 the sports governing body or its designee with respect to bets on its sporting events. The information
181 shared pursuant to this subsection shall be shared pseudonymously and shall not include personal
182 information associated with any bettor. A permit holder shall not be required to share any information that
183 is required to be kept confidential under federal or Virginia law.

184 2. A sports governing body shall use information shared pursuant to this subsection only for the
185 purpose of integrity monitoring and shall not use such information for any commercial purpose. A sports
186 governing body shall provide for security measures with respect to such information so as to prevent
187 unauthorized access and distribution.

188 E. In advertising its sports betting operations, a permit holder shall ensure that its advertisements:

- 189 1. Do not target persons under the age of 21;
- 190 2. Disclose the identity of the permit holder;
- 191 3. Provide information about or links to resources related to gambling addiction; and
- 192 4. Are not misleading to a reasonable person.

193 F. A permit holder shall not sublicense, convey, concede, or otherwise transfer its permit to a third
194 party unless granted approval by the Director. The Director shall charge a nonrefundable fee of \$200,000
195 for a permit transfer. Such fees shall be deposited into the Gaming Regulatory Fund established pursuant
196 to § 58.1-4048.

197 G. 1. A permit holder may operate its sports betting platform under a brand other than its own but
198 is prohibited from holding itself out to the public as a sports betting operation under more than one brand,
199 and a permit holder shall conspicuously display its utilized brand to sports bettors; however, if a permit
200 holder is a major league sports franchise, it shall not be required to associate the name of its sports betting
201 platform with the name of the major league sports franchise and shall be allowed to hold its sports betting
202 platform out to the public under a separate brand name.

203 2. A permit holder is prohibited from cooperatively marketing its sports betting platform with any
204 business issued a license pursuant to the provisions of Title 4.1. This prohibition shall not apply to any
205 motor sports facility, major league sports franchise, or operator of a facility issued a permit pursuant to
206 the provisions of subdivision D 4 or D 5 of § 58.1-4032, provided that such motor sports facility, major
207 league sports franchise, or operator of a facility shall be authorized to cooperatively market only on the
208 premises of its stadium. If casino gaming is authorized under the laws of the Commonwealth and a casino
209 gaming operator is licensed by the Department as a permit holder, the prohibition in this subdivision shall
210 not apply to such operator, provided that such operator shall be authorized to cooperatively market only

211 on the premises of its casino gaming establishment. A permit holder shall not be allowed an exemption
212 from the prohibition in this subdivision unless (i) such permit holder complies with any applicable local
213 zoning ordinances and (ii) the local governing body approves by ordinance cooperative marketing with
214 respect to the permit holder's stadium or casino gaming establishment.

215 H. A permit holder shall not purchase or use any personal biometric data unless the permit holder
216 has received written permission from the athlete's exclusive bargaining representative.

217 I. Permit holders shall at all times maintain cash reserves in amounts to be established by Board
218 regulation.

219 **§ 58.1-4048. Gaming Regulatory Fund.**

220 There is hereby created in the state treasury a special nonreverting fund to be known as the Gaming
221 Regulatory Fund, referred to in this section as "the Fund." The Fund shall be established on the books of
222 the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and
223 other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest
224 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
225 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but
226 shall remain in the Fund. Moneys in the Fund shall be used solely to offset the Department's costs
227 associated with (i) the conduct of investigations required by § 58.1-4032, 58.1-4043, 58.1-4104, 58.1-
228 4109, 58.1-4116, 58.1-4120, or 58.1-4121 or any other provision of this article or Chapter 41 (§ 58.1-4100
229 et seq.) and (ii) the enforcement of regulations promulgated by the Virginia Lottery Board pursuant to
230 subdivisions A 14 and 15 of § 58.1-4007, subdivision 2 of § 58.1-4102, and § 58.1-4103. Expenditures
231 and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
232 Comptroller upon written request signed by the Director.

233 **§ 58.1-4108. Operator's license required; capital investment; equity interest; transferability;**
234 **fee.**

235 A. No person shall operate a casino gaming establishment unless he has obtained an operator's
236 license issued by the Department in accordance with the provisions of this chapter and the regulations
237 promulgated hereunder.

238 B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall
239 (i) make a capital investment of at least \$300 million in a casino gaming establishment, including the value
240 of the real property upon which such establishment is located and all furnishings, fixtures, and other
241 improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming
242 establishment.

243 C. A license issued under the provisions of this chapter shall be transferable, provided that the
244 Department has approved the proposed transfer and all licensure requirements are satisfied at the time the
245 transfer takes effect.

246 D. A nonrefundable fee of \$15 million shall be paid by the applicant to the Department upon the
247 issuance of a license and upon any subsequent transfer of a license to operate a casino gaming
248 establishment. Such fees shall be deposited by the Department in the Gaming Regulatory Fund established
249 pursuant to § 58.1-4048.

250 E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license
251 for online sports betting pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.) or any subsequently
252 created online sports betting license.

253 **§ 58.1-4114. Supplier's permits; penalty.**

254 A. The Board may issue a supplier's permit to any person upon application and payment of a
255 nonrefundable application fee set by the Board, a determination by the Board that the applicant is eligible
256 for a supplier's permit, and payment of a \$5,000 initial permit fee. A supplier's permit shall be renewed at
257 a fee to be determined by the Department, not to exceed \$5,000 per year of licensure. Such fees shall be
258 deposited by the Department in the Gaming Regulatory Fund established pursuant to § 58.1-4048. The
259 Board shall prescribe by regulation the criteria for the issuance, duration, and renewal of supplier's
260 permits.

261 B. The holder of a supplier's permit may sell or lease, or contract to sell or lease, casino gaming
262 equipment and supplies, or provide management services, to any licensee involved in the ownership or
263 management of gaming operations to the extent provided in the permit.

264 C. Gaming equipment, devices, and supplies shall not be distributed unless such equipment,
265 devices, and supplies conform to standards adopted by the Department.

266 D. A person is ineligible to receive a supplier's permit if:

267 1. The person has been convicted of a felony under the laws of the Commonwealth or any other
268 state or of the United States;

269 2. The person has submitted an application for a license under this chapter that contains false
270 information;

271 3. The person is a Board member, employee of the Department, or a member of the immediate
272 household of a Board member or Department employee;

273 4. The person is an entity in which a person described in subdivision 1, 2, or 3 is an officer, director,
274 principal, or managerial employee;

275 5. The firm or corporation employs a person who participates in the management or operation of
276 casino gaming authorized under this chapter; or

277 6. A prior permit issued to such person to own or operate casino gaming establishments or supply
278 goods or services to a gaming operation under this chapter or any laws of any other jurisdiction has been
279 revoked.

280 E. Any person that supplies any casino gaming equipment, devices, or supplies to a licensed
281 gaming operation or manages any operation, including a computerized network, of a casino gaming
282 establishment shall first obtain a supplier's permit. A supplier shall furnish to the Department a list of all
283 management services, equipment, devices, and supplies offered for sale or lease in connection with the
284 games authorized under this chapter. A supplier shall keep books and records for the furnishing of casino
285 gaming equipment, devices, and supplies to gaming operations separate and distinct from any other
286 business that the supplier might operate. A supplier shall file a quarterly return with the Department listing
287 all sales and leases for which a permit is required. A supplier shall permanently affix its name to all its
288 equipment, devices, and supplies for gaming operations. Any supplier's equipment, devices, or supplies
289 that are used by any person in an unauthorized gaming operation shall be forfeited to the Commonwealth.

290 F. A licensed operator may operate its own equipment, devices, and supplies and may utilize casino
291 gaming equipment, devices, and supplies at such locations as may be approved by the Department for the
292 purpose of training enrollees in a school operated by the licensee to train individuals who desire to become
293 qualified for employment or promotion in gaming operations. The Board may promulgate regulations for
294 the conduct of any such schools.

295 G. Each holder of an operator's license under this chapter shall file an annual report with the
296 Department listing its inventories of casino gaming equipment, devices, and supplies related to its
297 operations in Virginia.

298 H. Any person who knowingly makes a false statement on an application for a supplier's permit is
299 guilty of a Class 4 felony.

300 **§ 58.1-4119. Application for service permit.**

301 A. Any person desiring to obtain a service permit as required by this chapter shall apply on a form
302 prescribed by the Department. The application shall be accompanied by a fee prescribed by the
303 Department. Such fees shall be deposited by the Department in the Gaming Regulatory Fund established
304 pursuant to § 58.1-4048.

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

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