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HOUSE BILL NO. 1103

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact §§ 58.1-4030 and 58.1-4037 of the Code of Virginia, relating to sports betting.*

Patrons—Sickles; Senator: Ebbin

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4030 and 58.1-4037 of the Code of Virginia are amended and reenacted as follows:
§ 58.1-4030. Definitions.

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise paid out as winnings to bettors, and the value of all allowable bonuses or promotions provided to patrons as an incentive to place or as a result of their having placed Internet sports betting wagers, *as provided in subsection D of § 58.1-4037*;

2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to bettors;

3. If the permit holder is a significant infrastructure limited licensee, as defined in § 59.1-365, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 14 of § 59.1-369; and

4. All excise taxes on sports betting paid pursuant to federal law.

"Amateur sports" means any sports or athletic event that is not professional sports, college sports, Virginia college sports, or youth sports. "Amateur sports" includes domestic, international, and Olympic sports or athletic events. "Amateur sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and the immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permittee from its sports betting operations.

"Major league sports franchise" means a professional baseball, basketball, football, hockey, or soccer team that is at the highest-level league of play for its respective sport.

"Motor sports facility" means an outdoor motor sports facility that hosts a National Association for Stock Car Auto Racing (NASCAR) national touring race.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Permit holder" means a person to which the Director issues a permit pursuant to §§ 58.1-4032 and 58.1-4033.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns, or other information as may be prescribed by the Board by regulation.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a permit holder or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity. "Principal" includes any individual who is employed in a managerial capacity for a sports betting platform or sports betting facility on behalf of a permit holder.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming, as defined in § 18.2-340.16; fantasy contests, as defined in § 59.1-556; or

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59 horse racing, as defined in § 59.1-365.

60 "Prohibited conduct" means any statement, action, or other communication intended to influence,
61 manipulate, or control a betting outcome of a sports event or of any individual occurrence or
62 performance in a sports event in exchange for financial gain or to avoid financial or physical harm.
63 "Prohibited conduct" includes statements, actions, and communications made to a covered person by a
64 third party. "Prohibited conduct" does not include statements, actions, or communications made or
65 sanctioned by a sports team or sports governing body.

66 "Proposition bet" means a bet on an individual action, statistic, occurrence, or non-occurrence to be
67 determined during an athletic event and includes any such action, statistic, occurrence, or non-occurrence
68 that does not directly affect the final outcome of the athletic event to which it relates.

69 "Sports betting" means placing wagers on professional sports, college sports, amateur sports, sporting
70 events, or any other event approved by the Director, and any portion thereof, and includes placing
71 wagers related to the individual performance statistics of athletes in such sports and events. "Sports
72 betting" includes any system or method of wagering approved by the Director, including single-game
73 bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play
74 bets, proposition bets, and straight bets. "Sports betting" does not include participating in charitable
75 gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; participating in
76 any lottery game authorized under Article 1 (§ 58.1-4000 et seq.); wagering on horse racing authorized
77 by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1; or participating in fantasy contests authorized by
78 Chapter 51 (§ 59.1-556 et seq.) of Title 59.1. "Sports betting" does not include placing a wager on a
79 college sports event in which a Virginia public or private institution of higher education is a participant.

80 "Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment
81 licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) that is designated for sports betting.

82 "Sports betting permit" means a permit to operate a sports betting platform or sports betting facility
83 issued pursuant to the provisions of §§ 58.1-4032, 58.1-4033, and 58.1-4034.

84 "Sports betting platform" means a website, app, or other platform accessible via the Internet or
85 mobile, wireless, or similar communications technology that sports bettors use to participate in sports
86 betting.

87 "Sports betting program" means the program established by the Board to allow sports betting as
88 described in this article.

89 "Sports bettor" means a person physically located in Virginia who participates in sports betting.

90 "Sports event" or "sporting event" means professional sports, college sports, amateur sports, and any
91 athletic event, motor race event, electronic sports event, competitive video game event, or any other
92 event approved by the Director.

93 "Sports governing body" means an organization, headquartered in the United States, that prescribes
94 rules and enforces codes of conduct with respect to a professional sports or college sports event and the
95 participants therein. "Sports governing body" includes a designee of the sports governing body.

96 "Stadium" means the physical facility that is the primary location at which a major league sports
97 franchise hosts athletic events and any appurtenant facilities.

98 "Tier 1 bet" means a bet that is placed using the Internet and that is not a tier 2 bet.

99 "Tier 2 bet" means a bet that is placed using the Internet and that is placed after the event it
100 concerns has started.

101 "Virginia college sports" means an athletic event in which at least one participant is a team from a
102 Virginia public or private institution of higher education.

103 "Youth sports" means an athletic event (i) involving a majority of participants under age 18 or (ii) in
104 which at least one participant is a team from a public or private elementary, middle, or secondary
105 school, regardless of where such school is located. However, if an athletic event meets the definition of
106 college sports or professional sports, such event shall not be considered youth sports regardless of the
107 age of the participants. An international athletic event organized by the International Olympic Committee
108 shall not be considered to be youth sports, regardless of the age of the participants.

109 **§ 58.1-4037. Tax on adjusted gross revenue.**

110 A. There shall be imposed a tax of 15 percent on a permit holder's adjusted gross revenue.

111 B. The tax imposed pursuant to this section is due monthly to the Department, and the permit holder
112 shall remit it on or before the twentieth day of the next succeeding calendar month. If the permit
113 holder's accounting necessitates corrections to a previously remitted tax, the permit holder shall
114 document such corrections when it pays the following month's taxes.

115 C. If the permit holder's adjusted gross revenue for a month is a negative number, the permit holder
116 may carry over the negative amount to a return filed for a subsequent month and deduct such amount
117 from its tax liability for such month, provided that such amount shall not be carried over and deducted
118 against tax liability in any month that is more than 12 months later than the month in which such
119 amount was accrued.

120 *For the purposes of this section, a permit holder may exclude from adjusted gross revenue the value*

121 of allowable bonuses and promotions as follows:

122 1. Through the first 12 months of wagering activity, the value of all bonuses or promotions provided
123 to bettors as an incentive to place or as a result of their having placed Internet sports betting wagers;
124 and

125 2. After the first 12 months of wagering activity, a permit holder is prohibited from excluding from
126 adjusted gross revenue any bonuses or promotions provided to bettors as an incentive to place or as a
127 result of their having placed Internet sports betting wagers.