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SENATE BILL NO. 530

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 8.01-216.3, 8.01-534, and 18.2-331.1 of the Code of Virginia, relating to illegal gaming devices; Virginia Fraud Against Taxpayers Act; civil penalty.

Patron—Reeves

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-216.3, 8.01-534, and 18.2-331.1 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-216.3. False claims; civil penalty.

A. Any person who:

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

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

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

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

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

6. *Manufactures for sale, sells, or distributes an illegal gaming device knowing that such device is or is intended to be operated in the Commonwealth in violation of Article 1 (§ 18.2-325 et seq.) or Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;*

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

~~7.~~ 8. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or

~~8.~~ 9. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Commonwealth or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Commonwealth;

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

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

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

C. For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with

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59 respect to information, (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of
60 the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the
61 information and require no proof of specific intent to defraud.

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

64 **§ 8.01-534. Grounds of action for pretrial levy or seizure of attachment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

99 **§ 18.2-331.1. Operation of gambling devices at unregulated locations; civil penalty.**

100 A. In addition to any other penalty provided by law, any person who conducts, finances, manages,
101 supervises, directs, *sells*, or owns a gambling device that is located in an unregulated location is subject
102 to a civil penalty of up to \$25,000 for each gambling device located in such unregulated location.

103 B. The Attorney General, an attorney for the Commonwealth, or the attorney for any locality may
104 cause an action in equity to be brought in the name of the Commonwealth or of the locality, as
105 applicable, to *immediately* enjoin the operation of a gambling device in violation of this section and to
106 request an attachment against all such devices and any moneys within such devices pursuant to Chapter
107 20 (§ 8.01-533 et seq.) of Title 8.01, and to recover the civil penalty of up to \$25,000 per device.

108 C. In any action brought under this section, the Attorney General, the attorney for the
109 Commonwealth, or the attorney for the locality may recover reasonable expenses incurred by the state or
110 local agency in investigating and preparing the case, and attorney fees.

111 D. Any civil penalties assessed under this section in an action in equity brought in the name of the
112 Commonwealth shall be paid into the Literary Fund. Any civil penalties assessed under this section in
113 an action in equity brought in the name of a locality shall be paid into the general fund of the locality.