



Virginia Department of Planning and Budget **Economic Impact Analysis**

11 VAC 5-60 Self-Exclusion Program
Virginia Lottery
Town Hall Action/Stage: 5950 / 9609
June 24, 2022

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB’s best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Virginia Lottery Board (Board) proposes to amend the *Self-Exclusion Program* regulation (regulation) in order to incorporate casinos and casino gaming.

Background

Legislation

Chapters 1197, 1218, 1248, and 1256 of the 2020 Acts of Assembly all mandated that the Board adopt regulations to establish and implement a voluntary exclusion program. The text for the four different chapters was not completely identical,² but all four essentially had the following for the definition of “voluntary exclusion program” and the requirements for voluntary exclusion programs.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² Chapters 1197 and 1248 are identical to each other, and mostly pertain to casino gaming. Chapters 1218 and 1256 are identical to each other, and mostly pertain to sports betting.

Definition of voluntary exclusion program: a program established by the Board that allows individuals to voluntarily exclude themselves from engaging in certain gambling activities (described in provision #1 below) by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

Requirements for Voluntary Exclusion Programs:

#1: Except as provided by a regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game; (ii) participating in sports betting as such activity is regulated by the Board; (iii) engaging in any form of casino gaming that may be allowed under the laws of the Commonwealth; (iv) participating in charitable gaming, as defined in Code of Virginia (COV) 18.2-340.16; (v) participating in fantasy contests, as defined in COV 59.1-556; or (vi) wagering on horse racing, as defined in COV 59.1-365. Any state agency, at the request of the Virginia Lottery, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

#2: A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

#3: Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

#4: The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Virginia Lottery limited to licensed lottery sales agent, owners and operators of casino gaming establishments, sports betting permit holders, and any other parties the Virginia Lottery deems necessary for purposes of enforcement.

#5: Lottery sales agents, owners and operators of casino gaming establishments, and sports betting permit holders shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude lottery sales agents, owners and operators of casino gaming establishments, and sports betting permit holders from seeking the payment of a debt incurred by

a person before entering the program. In addition, the owner or operator of a casino gaming establishment or a permit holder may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

Regulation

The regulation was initially promulgated in an exempt action³ that became effective on October 12, 2020. The regulation includes: 1) definitions, 2) requirements for individuals wishing to add themselves to the self-exclusion list,⁴ 3) requirements for the Virginia Lottery, sports betting permit holders, the Virginia Department of Agriculture and Consumer Services (VDACS), and the Virginia Racing Commission (VRC) concerning the exchange of information and keeping information up-to-date in their copies of the self-exclusion list, 4) specific responsibilities for sports betting permit holders in regard to procedures in interacting with individuals on the self-exclusion list, 5) the process and notifications for removal from self-exclusion list, and 6) the process and requirements concerning the forfeiture of winnings by self-excluded individual. There is no mention of casinos or casino gaming in the current regulation.

Estimated Benefits and Costs

Approximately one percent of the adult population in the United States suffer from pathological gambling,⁵ a persistent and recurrent maladaptive pattern of gambling behavior.⁶ Pathological gambling is commonly associated with relationship problems,⁷ employment issues,⁸ and significant financial difficulties.⁹ Additionally, pathological gamblers are at increased risk to

³ See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5609>

⁴ “Self-exclusion list” appears to be synonymous with “voluntary exclusion list.”

⁵ Sources: Petry NM, Stinson FS, Grant BF. Comorbidity of DSM-IV pathological gambling and other psychiatric disorders: results from the national epidemiologic survey on alcohol and related conditions. *Journal of Clinical Psychiatry*. 2005;66:564–574.

Shaffer HJ, Hall MN, Vander Bilt J. Estimating the prevalence of disordered gambling behavior in America and Canada: a research synthesis. *American Journal of Public Health*. 1999;89:1369–1376.

⁶ Source: Diagnostic and Statistical Manual of Mental Disorders, Washington, DC: American Psychiatric Association; 2000.

⁷ Sources: Scherrer JF, Slutske WS, Xian H, Waterman B, Shah KR, Volberg R, et al. Factors associated with pathological gambling at 10-year follow-up in a national sample of middle-aged men. *Addiction*. 2007;102:970–978. Lorenz VC, Yaffee RA. Pathological gambling: psychosomatic, emotional and marital difficulties as reported by the spouse. *Journal of Gambling Behavior*. 1988;4:13–26.

⁸ Source: Gerstein DR, Volberg RA, Toce MT, Harwood H, Johnson RA, Buie T, et al. *Gambling Impact and Behavior Study: report to the National Gambling Impact Study Commission*. New York, NY: Christiansen/Cummings Associates; 1999.

⁹ Sources: Boardman B, Perry JJ. Access to gambling and declaring personal bankruptcy. *Journal of Socio-Economics*. 2007;36:789–801.

develop stress-related conditions, such as hypertension, sleep deprivation, cardiovascular disease, and peptic ulcer disease.¹⁰ Common psychiatric conditions associated with pathological gambling include exacerbation and initiation of major depressive episodes, anxiety disorders, or substance use disorders.¹¹

Adding casinos to the self-exclusion program would likely be beneficial in that pathological gamblers who voluntarily add themselves to the self-exclusion list would very likely gamble less at casinos (by casinos preventing participation). By gambling less, the negative impacts described may be less likely to occur. Research helps confirm that to some extent participation in self-exclusion programs is linked to a reduction of pathological gambling habits and gambling-related problems.¹²

Garrett TA. The rise in personal bankruptcies: the Eighth Federal Reserve District and beyond. *Federal Reserve Bank of St Louis Review*. 2007;81:15–37.

Thalheimer R, Ali MM. The relationship of pari-mutuel wagering and casino gaming to personal bankruptcy. *Contemporary Economic Policy*. 2004;22:420–432.

Barron JM, Staten ME, Wilshusen SM. The impact of casino gambling on personal bankruptcy filing rates. *Contemporary Economic Policy*. 2002;20:440–455.

de la Vina L, Bernstein D. The impact of gambling on personal bankruptcy rates. *Journal of Socio-Economics*. 2002;31:503–509.

Gerstein DR, Volberg RA, Toce MT, Harwood H, Johnson RA, Buie T, et al. *Gambling Impact and Behavior Study: report to the National Gambling Impact Study Commission*. New York, NY: Christiansen/Cummings Associates; 1999.

¹⁰ Sources: Wong TW. The Biopsychosocial Consequences of Pathological Gambling. *Psychiatry*. 2005;2(3):22-30.

Natelson BH. Stress, hormones, and disease. *Physiology & Behavior*. 2004;82(1):139–43.

Littman-Sharp N. Gambling, fatigue, and drowsy driving. Presented at the 17th Annual National Conference on Problem Gambling, Louisville, KY: 2003.

¹¹ Sources: Wong TW. The Biopsychosocial Consequences of Pathological Gambling. *Psychiatry*. 2005;2(3):22-30.

Ladd GT, Petry NM. A comparison of pathological gamblers with and without substance abuse treatment histories. *Experimental and Clinical Psychopharmacology*. 2003;11(3):202–9.

Hollander E, Buchalter AJ, DeCaria CM. Pathological gambling. *Psychiatric Clinics of North America*. 2000;23(3):629–42.

Crockford DN, el-Guebaly N. Psychiatric comorbidity in pathological gambling: A critical review. *The Canadian Journal of Psychiatry*. 1998;43(1):43–50.

Briggs JR, Goodin BJ, Nelson T. Pathological gamblers and alcoholics: Do they share the same addictions? *Addictive Behaviors*. 1996;21(4):515–9.

¹² Sources: Gainsbury SM. Review of Self-exclusion from Gambling Venues as an Intervention for Problem Gambling. *Journal of Gambling Studies*. 2014;30:229–251.

Hayer T, Meyer G. Self-exclusion as a harm minimization strategy: Evidence from the casino sector from selected European countries. *Journal of Gambling Studies* 2011;27:685–700.

Nelson SE, Kleschinsky JH, LaBrie RA, Kaplan S, Shaffer HJ. One decade of self-exclusion: Missouri casino self-excluders four to ten years after enrolment. *Journal of Gambling Studies*. 2010;26:129–144.

Tremblay N, Boutin C, Ladouceur R. Improved Self-exclusion program: Preliminary results. *Journal of Gambling Studies*. 2008;24:505–518.

Ladouceur R, Sylvain C, Gosselin P. Self-exclusion program: A longitudinal evaluation study. *Journal of Gambling Studies*. 2007;23, 85–94.

For the most part, the proposed regulation essentially just adds “casino gaming” or “casino gaming establishment” to the provisions where “sports betting” or “sports betting permit holder” currently exist in the regulation. An exception occurs in the requirements for individuals wishing to add themselves to the self-exclusion list. Under the current regulation, applicants for two years or five years on the list must submit: a) name, including any aliases or nicknames, b) date of birth, c) street and mailing address of current residence, d) telephone number, and e) social security number. Applicants for lifetime on the list must submit all the above plus valid identification credentials containing the individual's signature and either a photograph or a general physical description. Under the proposed regulation all applicants for membership on the list, regardless of time length, must submit valid identification credentials containing the individual's signature and a photograph of the individual.¹³

According to the Virginia Lottery, valid identification containing a photograph of the individual is necessary so that casinos (where people appear in person) can accurately match the individual with the list. Thus, the proposal to require photo identification for membership on the list would be beneficial in that it would help casinos enforce the exclusion of list members from casinos and help reduce the negative impacts associated with their gambling. Photographs of individuals would also be added to the self-exclusion list sent by the Virginia Lottery to the VRC and VDACS. To the extent that these agencies use the photographs, it would help their regulants properly exclude list members from gambling on horse racing, historical horse racing, and charitable gaming. Accordingly, the proposal would be beneficial to the degree these changes reduce the negative impacts associated with pathological gambling as described above.¹⁴

For most people, providing valid identification containing a photograph would not be difficult. However, it is possible that not all potential problem gamblers have photo ID. Based on a study jointly conducted by Stanford University and the University of Michigan, approximately three percent of the total U.S. adult citizen population do not have any form of government photo

¹³ General physical description would no longer be an option for lifetime applicants.

¹⁴ VDACS reports that the proposed amendment to add photographs of the individuals on the self-exclusion list sent by Virginia Lottery to VDACS (Office of Charitable and Regulatory Programs) will not impact the program so long as the current method of delivery of the list does not differ. Furthermore, VDACS does not anticipate any impact from the other proposed amendments.

ID.¹⁵ For this small percentage of the population, the proposed additional requirement of a photo ID for membership on the self-exclusion list would be costly. It could deter a relative small number of pathological gamblers from seeking or obtaining membership on the list.

Businesses and Other Entities Affected

The proposed amendments affect the 14 sports betting permit holders,¹⁶ approximate 300 individuals currently on the self-exclusion list,¹⁷ the Virginia Lottery, VDACS (Office of Charitable and Regulatory Programs), the Virginia Racing Commission, as well as future licensed operators of casino gaming establishments and future individuals wishing to go on the self-exclusion list.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁸ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. Most affected entities or individuals would not be adversely affected. A small number of individuals who do not possess valid identification containing a photograph may wish to be added to the self-exclusion list, and thus may be worse off. Thus, an adverse impact is indicated.

Small Businesses¹⁹ Affected:²⁰

The proposed amendments do not appear to adversely affect small businesses.

¹⁵ The 2016 study was conducted by American National Election Studies, which is a collaboration of Stanford University and the University of Michigan, with funding by the National Science Foundation.

<https://electionstudies.org/data-center/2016-time-series-study/>

¹⁶ Data source: Virginia Lottery

¹⁷ Ibid

¹⁸ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

¹⁹ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

²⁰ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Localities²¹ Affected²²

The proposal to add casinos to the self-exclusion program may particularly affect the four cities where voters approved casinos, Danville, Bristol, Portsmouth, and Norfolk, as well as neighboring localities. There may be indirect costs for these local governments, as on the one hand the Virginia Lottery notes that local social service agencies may face reduced costs if fewer individuals and families suffer the financial and psychological damage that can be incurred by individuals who incur chronic gambling losses. On the other hand, there could be increased law enforcement costs as police officers would be called upon to process trespassing charges against individuals who gain access to a casino floor despite having opted into the program.

Projected Impact on Employment

The proposed amendments do not appear to directly affect total employment. To the extent that adding casinos to the self-exclusion program may help some pathological gamblers avoid gambling and associated negative impacts, it may help some such individuals from losing their jobs.

Effects on the Use and Value of Private Property

To the extent that adding casinos to the self-exclusion program may reduce financial losses for some pathological gamblers, the proposal may be beneficial for these individuals' net worth. The proposed amendments do not affect real estate development costs.

²¹ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

²² § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.