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## HOUSE BILL NO. 1689

Offered January 12, 2005

Prefiled December 22, 2004

A BILL to amend and reenact §§ 18.2-340.19 and 18.2-340.20 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.29.1, relating to charitable gaming; regulations of the Charitable Gaming Board; use of proceeds.

Patron—Albo

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-340.19 and 18.2-340.20 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.29.1 as follows:**

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations ~~which~~that:

1. Require, as a condition of receiving a permit, that the applicant use a ~~predetermined percentage~~the percentage of its gross receipts specified in § 18.2-340.29.1 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 Board finds appropriate to and consistent with the purpose of charitable gaming.

2. Require the organization to have at least 50 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 Board 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 Board shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Board or Department 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 (§ 2.2-3700 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 B 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 11 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 18 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 Board 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.

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations (i) in the types of bingo games and raffles that may be conducted and (ii) to the card formats for bingo games provided; however any such variations shall result in bingo games and raffles that are conducted in a manner consistent with the provisions of this article.

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59 Board-approved variations *to card formats* may include, but are not limited to, bingo games commonly  
60 referred to as player selection games and 90-number bingo.

61 § 18.2-340.20. Denial, suspension or revocation of permit; hearings and appeals.

62 A. ~~The Except as provided in § 18.2-340.29.1, the~~ Department may deny, suspend or revoke the  
63 permit of any organization found not to be in strict compliance with the provisions of this article and  
64 the regulations of the Board. The action of the Department in denying, suspending, or revoking any  
65 permit shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

66 B. Except as provided in §§ 18.2-340.30 and 18.2-340.36, no permit to conduct charitable gaming  
67 shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and  
68 the time and place for the hearing. At the discretion of the Department, hearings may be conducted by  
69 hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme  
70 Court. After a hearing on the issues, the Department may refuse to issue or may suspend or revoke any  
71 such permit if it determines that the organization has not complied with the provisions of this article or  
72 the regulations of the Board.

73 C. Any person aggrieved by a refusal of the Department to issue any permit, the suspension or  
74 revocation of a permit, or any other action of the Department, may seek review of such action in  
75 accordance with Article 4 (§ 2.2-4025 et seq.) of the Administrative Process Act.

76 D. (For expiration date - see Editor's note) Until December 31, 2004, the Department shall not deny,  
77 suspend, or revoke the permit of any organization solely because of its failure to meet the required  
78 minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by  
79 regulations adopted pursuant to subdivision 1 of § 18.2-340.19, unless requested by the organization,  
80 provided that the organization (i) was conducting gaming in a rented facility prior to January 1, 2000,  
81 and (ii) is otherwise in compliance with the laws and regulations governing charitable gaming in the  
82 Commonwealth.

83 D. (For effective date - see Editor's note) The Department shall not deny, suspend, or revoke the  
84 permit of any organization solely because of its failure to meet the required minimum percentage of its  
85 gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant  
86 to subdivision 1 of § 18.2-340.19, provided that (i) the organization is otherwise in compliance with the  
87 laws and regulations governing charitable gaming in the Commonwealth; (ii) there are no pending  
88 criminal charges or prior convictions against an officer of the organization or game manager involving a  
89 felony related to fraud, theft, or financial crimes, or involving a misdemeanor related to moral turpitude;  
90 and (iii) the Department determines that an organization has used sufficient proceeds for the purposes  
91 specified in subdivision 1 of § 18.2-340.33.

92 § 18.2-340.29.1. Use of proceeds of charitable gaming; authority of Department.

93 A. After the payment of the expenses authorized in subdivision 1 of § 18.2-340.33, an organization  
94 shall use all of its remaining receipts derived from charitable gaming for those lawful religious,  
95 charitable, community or educational purposes for which the organization is specifically chartered or  
96 organized, except that such receipts shall not be less than five percent of the organization's gross  
97 receipts.

98 B. In determining whether to deny, suspend, or revoke the permit of any organization solely because  
99 of its failure to meet the requirements of subsection A and Board regulations, the Department shall  
100 consider whether (i) the organization is otherwise in compliance with the laws and regulations  
101 governing charitable gaming in the Commonwealth; (ii) there are pending criminal charges or prior  
102 convictions against any officer of the organization or game manager involving a felony related to fraud,  
103 theft, or financial crimes, or involving a misdemeanor related to moral turpitude; and (iii) the  
104 organization, in the opinion of the Department, has used sufficient proceeds for the purposes specified  
105 in subsection A.