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## SENATE BILL NO. 1322

Offered January 21, 2005

A *BILL to amend and reenact §§ 18.2-340.19 and 18.2-340.33 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.34:1, relating to the Charitable Gaming Board; registration of bingo managers and callers.*

Patron—Devolites Davis

Referred to Committee for Courts of Justice

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

**1. That §§ 18.2-340.19 and 18.2-340.33 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding a section numbered 18.2-340.34:1, 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 of its gross receipts 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.

*11. Establish requirements for the registration of, and standards of conduct for, bingo managers and callers in accordance with § 18.2-340.34:1.*

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games that are conducted in a manner consistent with the provisions of this article.

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

61 § 18.2-340.33. Prohibited practices.

62 In addition to those other practices prohibited by this article, the following acts or practices are  
63 prohibited:

64 1. No part of the gross receipts derived by a qualified organization may be used for any purpose  
65 other than (i) reasonable and proper gaming expenses; (ii) reasonable and proper business expenses;  
66 (iii) those lawful religious, charitable, community or educational purposes for which the organization is  
67 specifically chartered or organized; and (iv) expenses relating to the acquisition, construction,  
68 maintenance, or repair of any interest in the real property involved in the operation of the organization  
69 and used for lawful religious, charitable, community or educational purposes. For the purposes of clause  
70 (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the  
71 real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a  
72 tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code and (b) the  
73 membership of the qualified organization is identical to such holding entity.

74 2. ~~No~~*Except as provided by regulation of the Board for bingo managers or callers*, no qualified  
75 organization shall enter into a contract with or otherwise employ for compensation any person for the  
76 purpose of organizing, managing, or conducting any charitable games. However, organizations composed  
77 of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing  
78 clerical assistance in the conduct of charitable gaming.

79 The provisions of this subdivision shall not prohibit the joint operation of bingo games held in  
80 accordance with § 18.2-340.29.

81 3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the  
82 conduct of any charitable games, any consideration in excess of the current fair market rental value of  
83 such property. Fair market rental value consideration shall not be based upon or determined by reference  
84 to a percentage of the proceeds derived from the operation of any charitable games or to the number of  
85 people in attendance at such charitable games.

86 4. No building or other premises shall be utilized in whole or in part for the purpose of conducting  
87 bingo games more frequently than two calendar days in any one calendar week. However, no building  
88 or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501  
89 (c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for  
90 the purpose of conducting bingo games more frequently than four calendar days in any one calendar  
91 week.

92 The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special  
93 permit issued in accordance with § 18.2-340.27.

94 5. No person shall participate in the management, operation or conduct of any charitable game unless  
95 such person is and, for a period of at least 30 days immediately preceding such participation, has been a  
96 bona fide member of the organization.

97 The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by  
98 qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor  
99 of a qualified organization, provided such employees' participation is limited to the management,  
100 operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such  
101 bona fide member of a qualified organization provided at least one bona fide member is present; or (iv)  
102 persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance  
103 with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b)  
104 such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c)  
105 such sales are conducted in the private social quarters of the organization.

106 6. No person shall receive any remuneration for participating in the management, operation or  
107 conduct of any charitable game, except that:

108 a. Persons employed by organizations composed of or for deaf or blind persons may receive  
109 remuneration not to exceed \$30 per event for providing clerical assistance in the conduct of charitable  
110 games only for such organizations;

111 b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for  
112 youth activities in which they participate may receive nonmonetary incentive awards or prizes from the  
113 organization;

114 c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which  
115 such bingo games are played for providing uniformed security for such bingo games even if such officer  
116 is a member of the sponsoring organization, provided the remuneration paid to such member is in  
117 accordance with off-duty law-enforcement personnel work policies approved by the local  
118 law-enforcement official and further provided that such member is not otherwise engaged in the  
119 management, operation or conduct of the bingo games of that organization; ~~and~~

120 d. A member of a qualified organization lawfully participating in the management, operation or

conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations; and

*e. Remuneration may be paid to bingo managers or callers in accordance with regulations of the Board, not to exceed \$100 per day for bingo managers or \$50 per day for bingo callers.*

7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment, and each service to be provided by the landlord.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

- a. No bingo door prize shall exceed \$25;
- b. No regular bingo or special bingo game prize shall exceed \$100;
- c. No instant bingo prize for a single card shall exceed \$500; and
- d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one-calendar day exceed \$1,000.

9a. The provisions of subdivision 9 shall not apply to:

a. Any bingo game, commonly referred to as "winner-take-all" games, in which all the gross receipts from players for that game, up to \$1,000, are paid as prize money back to the players, provided (i) there are no more than one such game per calendar day of play, (ii) the prize money from any such game does not exceed the lesser of the gross receipts directly attributable to the sale of bingo cards or sheets for such game or \$1,000, (iii) the bingo cards or sheets used for such games are sold separately from the bingo cards or sheets used for any other bingo games, and (iv) the organization separately accounts for the proceeds from such sales; or

b. Any bingo game, commonly referred to as "Lucky Seven" games, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of seven predetermined numbers selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the seven predetermined numbers are covered when a certain number of numbers is called, provided (i) there is no more than one such game per calendar day per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with the Department's rules of play.

10. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

12. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Board regulation.

13. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not

182 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were  
183 conducting such games. These restrictions and prohibitions shall include, but not be limited to, the  
184 frequency with which bingo games may be held, the value of merchandise or money awarded as prizes,  
185 or any other practice prohibited under this section.

186 14. A qualified organization shall not purchase any charitable gaming supplies for use in this  
187 Commonwealth from any person who is not currently registered with the Department as a supplier  
188 pursuant to § 18.2-340.34.

189 15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross  
190 receipts shall be used for an organization's social or recreational activities.

191 § 18.2-340.34:1. *Bingo managers and callers; registration; qualification; suspension, revocation, or*  
192 *refusal to renew certificate.*

193 A. *No person shall conduct or offer to conduct any bingo game as a bingo manager or caller for*  
194 *any qualified organization unless and until such person has made application for and has been issued a*  
195 *registration certificate by the Department. Application for registration shall be made on forms*  
196 *prescribed by the Department and shall be accompanied by a fee in the amount of \$75. Each*  
197 *registration certificate shall remain valid for a period of one year from the date of issuance. Application*  
198 *for renewal of a registration certificate shall be accompanied by a fee in the amount of \$75 and shall*  
199 *be made on forms prescribed by the Department.*

200 B. *The Board shall have authority to prescribe by regulation reasonable criteria consistent with the*  
201 *provisions of this article for the registration of, and standards of conduct for, bingo managers and*  
202 *callers, including provisions that (i) require, as a condition of registration, that the bingo manager or*  
203 *caller be a member of the qualified organization for at least 12 consecutive months prior to making*  
204 *application for registration and (ii) authorize the payment of remuneration to a bingo manager or caller*  
205 *by a qualified organization, not to exceed \$100 per day for bingo managers or \$50 per day for bingo*  
206 *callers. The Department may refuse to register any bingo manager or caller who has (i) been convicted*  
207 *of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any*  
208 *offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded*  
209 *nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate, or other*  
210 *authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked*  
211 *in the Commonwealth or in any other jurisdiction; or (iv) failed to file or has been delinquent in excess*  
212 *of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.*

213 C. *The Department may suspend, revoke, or refuse to renew the registration certificate of any bingo*  
214 *manager or caller for any conduct described in subsection B or for any violation of this article or*  
215 *regulations of the Board. Before taking any such action, the Department shall give the person a written*  
216 *statement of the grounds upon which it proposes to take action and provide an opportunity for that*  
217 *person to be heard. Every hearing in a contested case shall be conducted in accordance with the*  
218 *Administrative Process Act (§ 2.2-4000 et seq.).*