

066135488

HOUSE BILL NO. 387

Offered January 11, 2006

Prefiled January 6, 2006

A BILL to amend and reenact §§ 18.2-340.16, 18.2-340.19, 18.2-340.22, 18.2-340.33, and 18.2-340.34:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.28:1, relating to the Department of Charitable Gaming; regulation of charitable small card tournaments.

Patron—Reid

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.19, 18.2-340.22, 18.2-340.33, and 18.2-340.34:1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 18.2-340.28:1 as follows:

§ 18.2-340.16. Definitions.

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to seventy-five, (ii) Board-approved electronic devices which display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Board-approved cards pursuant to subsection B of § 18.2-340.19, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five columns headed respectively by the letters B.I.N.G.O.

"Board" means the Charitable Gaming Board created pursuant to § 2.2-2455.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, *playing cards and related supplies for charitable small card tournaments*, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands or tape.

"Charitable small card tournament" means a game of chance involving a series of card games in which players are eliminated until one player is declared the overall winner and prizes are awarded to the tournament winner and may be awarded to other runners up.

"Department" means the Department of Charitable Gaming created in accordance with Chapter 9.1 (§ 2.2-905 et seq.) of Title 2.2.

"Director" means the Director of the Department of Charitable Gaming.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, made completely of paper or paper products, with winners being determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation,

INTRODUCED

HB387

59 or employee thereof, which owns and leases, or leases any premise devoted in whole or in part to the
60 conduct of bingo games, and any person residing in the same household as a landlord.

61 "Organization" means any one of the following:

62 1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in
63 accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the
64 volunteer fire department or rescue squad is located as being a part of the safety program of such
65 political subdivision;

66 2. An organization operated exclusively for religious, charitable, community or educational purposes;

67 3. An association of war veterans or auxiliary units thereof organized in the United States;

68 4. A fraternal association or corporation operating under the lodge system;

69 5. A local chamber of commerce; or

70 6. A nonprofit organization that raises funds by conducting raffles which generate annual gross
71 receipts of less than \$75,000, provided such gross receipts from the raffle, less expenses and prizes, are
72 used exclusively for charitable, educational, religious or community purposes.

73 "Qualified organization" means any organization to which a valid permit has been issued by the
74 Department to conduct charitable gaming or any organization which is exempt pursuant to
75 § 18.2-340.23.

76 "Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or
77 prearranged number of one or more persons purchasing chances or (ii) a random contest in which the
78 winning name or preassigned number of one or more persons purchasing chances is determined by a
79 race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

80 For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made
81 completely of paper or paper products, with winners being determined by the appearance of preprinted
82 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses,
83 such cards being commonly referred to as "pull tabs" or "seal cards" which conceal one or more
84 numbers or symbols that have been designated in advance as prize winners. Such cards may be
85 dispensed by electronic or mechanical equipment.

86 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified
87 organization and not otherwise allowed under this article or under Board regulations on real estate and
88 personal property tax payments, travel expenses, payments of utilities and trash collection services, legal
89 and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition,
90 maintenance, repair or construction of an organization's real property. For the purpose of this definition,
91 salaries and wages of employees whose primary responsibility is to provide services for the principal
92 benefit of an organization's members shall not qualify as a business expense. However, payments made
93 pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund
94 shall be deemed a reasonable and proper business expense.

95 "Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming
96 supplies to any qualified organization.

97 § 18.2-340.19. Regulations of the Board.

98 A. The Board shall adopt regulations which:

99 1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of
100 its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which
101 the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition,
102 construction, maintenance or repair of any interest in real property involved in the operation of the
103 organization and used for lawful religious, charitable, community or educational purposes. The
104 regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing
105 manner based upon factors the Board finds appropriate to and consistent with the purpose of charitable
106 gaming.

107 2. Require the organization to have at least 50 percent of its membership consist of residents of the
108 Commonwealth and specify the conditions under which a complete list of the organization's members
109 who participate in the management, operation or conduct of charitable gaming may be required in order
110 for the Board to ascertain the percentage of Virginia residents; however, if an organization (i) does not
111 consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal
112 Revenue Code, the Board shall exempt such organizations from the regulations adopted pursuant to this
113 subdivision.

114 Membership lists furnished to the Board or Department in accordance with this subdivision shall not
115 be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of
116 Information Act (§ 2.2-3700 et seq.).

117 3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the
118 nature and extent of the charitable gaming activity proposed to be conducted.

119 4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

120 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. Prescribe the conditions for the management, operation, and conduct of charitable small card tournaments.

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

§ 18.2-340.22. Only raffles, bingo and instant bingo games, and charitable small card tournaments permitted; prizes not gaming contracts.

A. This article permits qualified organizations to conduct raffles, bingo and instant bingo games, and charitable small card tournaments. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the State Lottery Department's Pick-3 number or any number or other designation selected by the State Lottery Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 18.2-340.28:1. *Conduct of charitable small card tournaments.*

A. *Only qualified organizations required to obtain a permit from the Department may conduct charitable small card tournaments. Such charitable small card tournaments shall be conducted in accordance with the provisions of this article and Board regulations.*

B. *No qualified organization authorized to conduct charitable small card tournaments shall allow any individual under the age of 18 years to participate in a charitable small card tournament.*

C. *The total prize amount for any charitable small card tournament session shall not exceed 40% of the gross receipts collected for such session. The qualified organization authorized to conduct charitable small card tournaments shall designate the prizes for the tournament winner and any runners up, such prize amount not to exceed \$100,000.*

D. *The entrance fee for any regular charitable small card tournament shall not exceed \$200 per session. However, a qualified organization authorized to conduct charitable small card tournaments may, no more frequently than two calendar days per year, conduct a special tournament where the entrance fee is no more than \$500 per session.*

E. *Charitable small card tournaments shall be conducted only at such locations and at such times as are designated in the permit issued by the Department. Charitable small card tournaments may be held no more frequently than two calendar days in any calendar week. No charitable small card tournament shall be permitted in any building, facility, establishment, or other premises in which alcoholic beverages are sold, given, or otherwise made available to the public.*

F. *No person shall participate in a charitable small card tournament as a card dealer without a valid registration certificate issued by the Department pursuant to § 18.2-340.34:1. Nor shall such person serve as a charitable gaming manager during any charitable small card tournament in which he participates as a card dealer.*

§ 18.2-340.33. Prohibited practices.

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

1. No part of the gross receipts derived by a qualified organization may be used for any purpose

182 other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii)
183 those lawful religious, charitable, community or educational purposes for which the organization is
184 specifically chartered or organized, and (iv) expenses relating to the acquisition, construction,
185 maintenance, or repair of any interest in the real property involved in the operation of the organization
186 and used for lawful religious, charitable, community or educational purposes. For the purposes of clause
187 (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the
188 real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a
189 tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code and (b) the
190 membership of the qualified organization is identical to such holding entity.

191 2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or
192 otherwise employ for compensation any person for the purpose of organizing, managing, or conducting
193 any charitable games. However, organizations composed of or for deaf or blind persons may use a part
194 of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable
195 gaming.

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

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

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

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

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

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

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

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

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

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

237 d. A member of a qualified organization lawfully participating in the management, operation or
238 conduct of a ~~bingo~~charitable game may be provided food and nonalcoholic beverages by such
239 organization for on-premises consumption during the ~~bingo~~charitable game provided the food and
240 beverages are provided in accordance with Board regulations; and

241 e. Remuneration may be paid to ~~bingo~~charitable gaming managers ~~or~~, bingo callers, or charitable
242 small card tournament dealers who have a current registration certificate issued by the Department in
243 accordance with § 18.2-340.34:1. Such remuneration shall not exceed \$100 per session for

bingocharitable gaming managers or, \$50 per session for bingo callers, or \$75 per session for charitable small card tournament dealers.

7. No landlord shall, at bingocharitable games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingocharitable games; (ii) sell, lease or otherwise provide for consideration any bingocharitable gaming supplies, including, but not limited to, bingo cards, instant bingo cards, playing cards or other gamegaming pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingocharitable gaming 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 bingocharitable 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 bingocharitable gaming 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 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the

frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

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

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

§ 18.2-340.34:1. Charitable gaming managers, bingo callers, and charitable small card tournament dealers; remuneration; registration; qualification; suspension, revocation or refusal to renew certificate.

A. No person shall receive remuneration as a ~~bingo~~charitable gaming manager or bingo caller from any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Department. Application for registration shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$75. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$75 and shall be made on forms prescribed by the Department.

B. *No person shall participate in a charitable small card tournament as a card dealer unless and until such person has made application for and has been issued a registration certificate by the Department. Application for registration shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$75. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$75 and shall be made on forms prescribed by the Department.*

C. As a condition of registration, the applicant shall (i) have been a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration and (ii) be required to complete a reasonable training course developed and conducted by the Department. The Department may refuse to register any ~~bingo~~charitable gaming manager ~~or~~, bingo caller, or charitable card dealer who has (a) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

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

2. That the Charitable Gaming Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.