

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 226

An Act to amend and reenact §§ 18.2-340.33 and 18.2-340.34:1 of the Code of Virginia, relating to charitable gaming; regulation of bingo callers; exceptions.

[H 3078]

Approved March 9, 2007

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.33 and 18.2-340.34:1 of the Code of Virginia are amended and reenacted as follows:

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

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

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

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

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

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

5. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

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

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

a. Persons employed by organizations composed of or for deaf or blind persons may receive

remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

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

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

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 who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, *or who are exempt from such registration requirement*. Such remuneration shall not exceed \$100 per session.

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.

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 \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$599; 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 session exceed \$1,000.

10. 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 is no more than one such game per session 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 session 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.

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

The provisions of this subdivision shall not apply to a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) 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) tax-exempt organization.

12. No qualified organization composed of or for deaf or blind persons which employs a person not

a member to provide clerical assistance in the management and operation but not 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.

13. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. 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.

14. 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.

15. 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.

16. 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. Bingo managers and callers; remuneration; registration; qualification; suspension, revocation or refusal to renew certificate; exceptions.

A. No person shall receive remuneration as a bingo manager or 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. 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 manager or caller 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. The Department may suspend, revoke, or refuse to renew the registration certificate of any bingo manager or caller for any conduct described in subsection B or for any violation of this article or regulations of the Board. Before taking any such action, the Department shall give the bingo manager or caller 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.).

D. The provisions of subsection A requiring registration for bingo callers with the Department shall not apply to a bingo caller for a volunteer fire department or rescue squad or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision.