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HOUSE BILL NO. 1998

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 23, 2007)

(Patron Prior to Substitute—Delegate Suit)

A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.34 of the Code of Virginia, relating to charitable gaming; definition of instant bingo, pull tabs, and seal cards.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.34 of the Code of Virginia are amended and reenacted 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) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"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, 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.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to, (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"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 generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards, *including Department-approved electronic versions thereof*, with winners being determined by the preprinted or predetermined 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 that the organization has designated on its game program as a jackpot game, exclusive of a "winner-take-all" bingo game, in which the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any premise devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include, but is not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting and maintaining required records and financial reports, and ensuring that all aspects of the

60 operation are in compliance with all applicable statutes and regulations.

61 "Operation" means the activities associated with production of a charitable gaming activity, which
62 may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming;
63 (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the
64 organization's management.

65 "Organization" means any one of the following:

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

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

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

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

73 5. A local chamber of commerce; or

74 6. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross
75 receipts of \$25,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are
76 used exclusively for charitable, educational, religious or community purposes.

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

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

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

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

95 § 18.2-340.34. Suppliers of charitable gaming supplies; manufacturers of electronic games of chance
96 systems; permit; qualification; suspension, revocation or refusal to renew certificate; maintenance,
97 production, and release of records.

98 A. No person shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified
99 organization *and no manufacturer shall distribute electronic games of chance systems for charitable*
100 *gaming in the Commonwealth* unless and until such person has made application for and has been issued
101 a permit by the Department. An application for permit shall be made on forms prescribed by the
102 Department and shall be accompanied by a fee in the amount of \$1,000. Each permit shall remain valid
103 for a period of one year from the date of issuance. Application for renewal of a permit shall be
104 accompanied by a fee in the amount of \$1,000 and shall be made on forms prescribed by the
105 Department.

106 B. The Board shall have authority to prescribe by regulation reasonable criteria consistent with the
107 provisions of this article for the registration of suppliers *and manufacturers of electronic games of*
108 *chance systems for charitable gaming*. The Department may refuse to issue a permit to any supplier *or*
109 *manufacturer* who has, or which has any officer, director, partner, or owner who has (i) been convicted
110 of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any
111 offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded
112 nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate or other
113 authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked
114 in the Commonwealth or in any other jurisdiction; (iv) failed to file or has been delinquent in excess of
115 one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or (v)
116 failed to establish a registered office or registered agent in the Commonwealth if so required by
117 § 13.1-634 or 13.1-763.

118 C. The Department may suspend, revoke or refuse to renew the permit of any supplier *or*
119 *manufacturer* for any conduct described in subsection B or for any violation of this article or regulation
120 of the Board. Before taking any such action, the Department shall give the supplier *or manufacturer* a
121 written statement of the grounds upon which it proposes to take such action and an opportunity to be

122 heard. Every hearing in a contested case shall be conducted in accordance with the Administrative
123 Process Act (§ 2.2-4000 et seq.).

124 D. Each supplier shall document each sale of charitable gaming supplies, *including electronic games*
125 *of chance systems*, and other items incidental to the conduct of charitable gaming, such as markers,
126 wands or tape, to a qualified organization on an invoice which clearly shows (i) the name and address
127 of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the
128 name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the
129 quantity of deals sold and the price per deal paid by the qualified organization; (iv) the serial number of
130 the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper,
131 and the cut, color and quantity of bingo paper sold; and (v) any other information with respect to
132 charitable gaming supplies, *including electronic games of chance systems*, or other items incidental to
133 the conduct of charitable gaming as the Board may prescribe by regulation. A legible copy of the
134 invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

135 *Each manufacturer of electronic games of chance systems shall document each distribution of such*
136 *systems to a qualified organization or supplier on an invoice which clearly shows (i) the name and*
137 *address of the qualified organization or supplier to which such systems were distributed; (ii) the date of*
138 *distribution; (iii) the serial number of each such system; and (iv) any other information with respect to*
139 *electronic games of chance systems as the Board may prescribe by regulation. A legible copy of the*
140 *invoice shall accompany the electronic games of chance systems when delivered to the qualified*
141 *organization or supplier.*

142 E. Each supplier *and manufacturer* shall maintain a legible copy of each invoice required by
143 subsection D for a period of three years from the date of sale. Each supplier *and manufacturer* shall
144 make such documents immediately available for inspection and copying to any agent or employee of the
145 Department upon request made during normal business hours. This subsection shall not limit the right of
146 the Department to require the production of any other documents in the possession of the supplier *or*
147 *manufacturer* which relate to its transactions with qualified organizations. All documents and other
148 information of a proprietary nature furnished to the Department in accordance with this subsection shall
149 not be a matter of public record and shall be exempt from disclosure under the provisions of the
150 Freedom of Information Act (§ 2.2-3700 et seq.).