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SENATE BILL NO. 172

Offered January 11, 2012

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A *BILL to amend and reenact §§ 2.2-2456, 18.2-325, 18.2-340.16, 18.2-340.19, 18.2-340.22, and 18.2-340.33 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.28:1 and by adding in Chapter 8 of Title 18.2 an article numbered 1.2, consisting of sections numbered 18.2-340.40 through 18.2-340.56, relating to the definition of illegal gambling and charitable gaming; authorization of poker games; regulation of poker tournaments.*

Patron—Petersen

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2456, 18.2-325, 18.2-340.16, 18.2-340.19, 18.2-340.22, and 18.2-340.33 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 and by adding in Chapter 8 of Title 18.2 an article numbered 1.2, consisting of sections numbered 18.2-340.40 through 18.2-340.56, as follows:

§ 2.2-2456. Duties of the Charitable Gaming Board.

The Board shall:

1. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of this chapter and the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) and Article 1.2 (§ 18.2-340.40 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations;

2. Advise the Department of Agriculture and Consumer Services on the conduct of charitable gaming in Virginia and recommend changes to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; and

3. Keep a complete and accurate record of its proceedings. A copy of such record and any other public records not exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.) shall be available for public inspection and copying during regular office hours at the Department of Agriculture and Consumer Services.

§ 18.2-325. Definitions.

1. "Illegal gambling" means the making, placing or receipt of any bet or wager in the Commonwealth of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other thing of value shall include the purchase of a product, Internet access, or other thing, which purchase credits the purchaser with free points or other measurable units that may be (i) risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money or (ii) redeemed by the purchaser for money, and but for the free points or other measurable units, with regard to clauses (i) and (ii), the purchase of the product, Internet access, or other thing (a) would be of insufficient value in and of itself to justify the purchase or (b) is merely incidental to the chance to win money.

Poker games shall be deemed games of skill and nothing in this subdivision shall be construed to make any such game illegal gambling.

2. "Interstate gambling" means the conduct of an enterprise for profit which engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity, and

b. Any machine, apparatus, implement, instrument, contrivance, board or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it

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59 may eject something of value or determine the prize or other thing of value to which the player is
60 entitled; provided, however, that the return to the user of nothing more than additional chances or the
61 right to use such machine is not deemed something of value within the meaning of this subsection; and
62 provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent
63 value that may differ from each other in composition, size, shape or color, shall not be deemed
64 gambling devices within the meaning of this subsection.

65 Such devices are no less gambling devices if they indicate beforehand the definite result of one or
66 more operations but not all the operations. Nor are they any less a gambling device because, apart from
67 their use or adaptability as such, they may also sell or deliver something of value on a basis other than
68 chance.

69 4. "Operator" includes any person, firm or association of persons, who conducts, finances, manages,
70 supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

71 5. *"Poker" means any of several card games in which a player bets that the value of his hand is*
72 *greater than that of the hands held by others, in which each subsequent player must either equal or*
73 *raise the bet or drop out, and in which the player holding the highest hand at the end of the betting*
74 *wins the prize, stake, or other consideration or thing of value.*

75 § 18.2-340.16. Definitions.

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

77 "Bingo" means a specific game of chance played with (i) individual cards having randomly numbered
78 squares ranging from one to ~~seventy-five~~ 75, (ii) Department-approved electronic devices that display
79 facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as
80 numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of
81 designated numbers on such cards conforming to a predetermined pattern of numbers selected at
82 random.

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

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

86 "Charitable gaming" or "charitable games" means those raffles, *poker games*, and games of chance
87 explicitly authorized by this article.

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

93 "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

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

98 "Department" means the Department of Agriculture and Consumer Services.

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

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

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

107 "Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random
108 selection of one or more individually prepacked cards, including Department-approved electronic
109 versions thereof, with winners being determined by the preprinted or predetermined appearance of
110 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses
111 and may include the use of a seal card which conceals one or more numbers or symbols that have been
112 designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical
113 equipment.

114 "Jackpot" means a bingo game that the organization has designated on its game program as a jackpot
115 game in which the prize amount is greater than \$100.

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

120 "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 operation are in compliance with all applicable statutes and regulations.

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

"Organization" means any one of the following:

1. A volunteer fire department or rescue squad or auxiliary unit thereof which 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;

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

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

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

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

6. A local chamber of commerce; or

7. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross receipts of \$40,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or community purposes.

"Poker game" means any of several card games in which a player bets that the value of his hand is greater than that of the hands held by others, in which each subsequent player must either equal or raise the bet or drop out, and in which the player holding the highest hand at the end of the betting wins the prize, stake, or other consideration or thing of value.

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

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

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

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

§ 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. 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 in accordance with subdivision A 3 of § 18.2-340.24.

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

182 nature and extent of the charitable gaming activity proposed to be conducted.

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

184 5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board
185 regulations shall include capacity for such equipment to provide full automatic daubing as numbers are
186 called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull
187 tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or
188 seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards,
189 or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot
190 and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more
191 reels marked into horizontal segments by varying symbols, where the predetermined prize amount
192 depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other
193 similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely
194 intended to entice players to play.

195 6. Prescribe the conditions under which a qualified organization may (i) provide food and
196 nonalcoholic beverages to its members who participate in the management, operation or conduct of
197 bingo; (ii) permit members who participate in the management, operation or conduct of bingo to play
198 bingo; and (iii) subject to the provisions of subdivision 13 of § 18.2-340.33, permit nonmembers to
199 participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a
200 bona fide member of the organization during the bingo game.

201 7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle
202 drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

203 8. Prescribe the conditions under which persons who are bona fide members of a qualified
204 organization or a child, above the age of 13 years, of a bona fide member of such organization may
205 participate in the conduct or operation of bingo games.

206 9. Prescribe the conditions under which a person below the age of 18 years may play bingo,
207 provided such person is accompanied by his parent or legal guardian.

208 10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous
209 place in every place where charitable gaming is conducted a sign which bears a toll-free telephone
210 number for "Gamblers Anonymous" or other organization which provides assistance to compulsive
211 gamblers.

212 11. *Prescribe the conditions under which a qualified organization may manage, operate, or conduct*
213 *poker games.*

214 B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board
215 may, by regulation, approve variations to the card formats for bingo games provided such variations
216 result in bingo games that are conducted in a manner consistent with the provisions of this article.
217 Board-approved variations may include, but are not limited to, bingo games commonly referred to as
218 player selection games and 90-number bingo.

219 § 18.2-340.22. Only raffles, bingo, instant bingo games, and poker games permitted; prizes not
220 gaming contracts.

221 A. This article permits qualified organizations to conduct raffles, bingo and instant bingo games, *and*
222 *poker games.* All games not explicitly authorized by this article or Board regulations adopted in
223 accordance with § 18.2-340.18 are prohibited.

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

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

229 § 18.2-340.28:1. *Conduct of poker games by qualified organizations.*

230 A. *Any organization qualified to conduct bingo games pursuant to the provisions of this article may*
231 *conduct poker games in conjunction with such bingo games and only at such location and at such times*
232 *as designated in the permit for regular bingo games.*

233 B. *A qualified organization shall accept only cash or, at its option, checks in payment of any charges*
234 *or assessments for players to participate in poker games. However, no such organization shall accept*
235 *postdated checks in payment of any charges or assessments for players to participate in poker games.*

236 C. *No qualified organization or any person on the premises shall extend lines of credit or accept any*
237 *credit or debit card or other electronic fund transfer in payment of any charges or assessments for*
238 *players to participate in poker games.*

239 D. *No qualified organization shall allow any individual less than 18 years of age to participate in a*
240 *poker game.*

241 E. *No qualified organized shall be eligible to conduct any poker tournament as defined in Article 1.2*
242 *(§ 18.2-340.40 et seq.).*

243 § 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. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No poker game prize shall exceed \$100.

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

Any progressive bingo game, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of predetermined numbers or patterns 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 predetermined numbers or patterns are covered when a certain number of numbers is called, provided (i) there are no more than six such games 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.

Article 1.2.

Regulation of Poker Tournaments.

§ 18.2-340.40. *State control of poker tournaments.*

A. *Poker tournaments as defined in this article and authorized herein shall be permitted in the Commonwealth, but shall be conducted only in strict compliance with the provisions of this article. The Department of Agriculture and Consumer Services is vested with control of all poker tournaments in the Commonwealth. The Charitable Gaming Board shall have the power to prescribe regulations and conditions under which such tournaments are conducted to ensure that they are conducted in a manner consistent with this article.*

B. *The conduct of any poker tournament is a privilege that may be granted or denied by the Department of Agriculture and Consumer Services or its duly authorized representatives in order to effectuate the purposes set forth in this article.*

§ 18.2-340.41. *Definitions.*

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

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

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Conduct" means the actions associated with the operation of a poker tournament during and immediately before or after the permitted activity including (i) operating poker tournaments, (ii) distributing prizes, and (iii) any other services provided by tournament workers employed by the tournament sponsor, manager, or operator.

"Department" means the Department of Agriculture and Consumer Services.

"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 poker tournaments.

"Gross receipts" means the total amount of money generated at a poker tournament before the deduction of expenses, including prizes.

"Management" means the provision of oversight of a poker tournament, which may include 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 operation are in compliance with all applicable statutes and regulations.

"Operation" means the activities associated with production of a poker tournament, which may include (i) direct on-site supervision of the conduct of the tournament and (ii) coordination of employees associated with the tournament.

"Poker game" means any of several card games in which a player bets that the value of his hand is greater than that of the hands held by others, in which each subsequent player must either equal or raise the bet or drop out, and in which the player holding the highest hand at the end of the betting wins the prize, stake, or other consideration or thing of value.

"Poker tournament" or "tournament" means a competition organized for the purpose of conducting poker games at one or multiple tables where (i) competitors play a series of poker games, (ii) prizes are awarded to winning players on a fixed or proportional payout basis, and (iii) the total prize amount awarded to all winning players at the event is \$50,000 or more.

"Supplier" means any person who offers to sell, sells, or otherwise provides poker gaming supplies to any tournament sponsor, manager, or operator.

"Tournament sponsor" or "sponsor" means any person or his agent who, for compensation, sponsors, organizes, operates, or provides the facilities for a poker tournament.

§ 18.2-340.42. *Powers and duties of the Department.*

The Department shall have all powers and duties necessary to carry out the provisions of this article and to exercise the control of poker tournaments as set forth in § 18.2-340.40. Such powers and duties shall include the following:

1. *The Department is vested with jurisdiction and supervision over all poker tournaments authorized under the provisions of this article and including all persons that sponsor, manage or operate, or provide goods or services used in the conduct of poker tournaments. The Department shall designate*

428 such agents and employees as it deems necessary and appropriate who shall be sworn to enforce the
429 provisions of this article and the criminal laws of the Commonwealth and who shall be law-enforcement
430 officers as defined in § 9.1-101.

431 2. The Department, its agents and employees, and any law-enforcement officers charged with the
432 enforcement of poker tournaments laws (i) shall have free access to the offices, facilities, or any other
433 place of business of any tournament sponsor, including any premises devoted in whole or in part to the
434 conduct or operation of poker tournaments and (ii) may enter such places or premises for the purpose
435 of carrying out any duty imposed by this article, securing records required to be maintained by an
436 organization, investigating complaints, or conducting audits.

437 3. The Department may compel the production of any books, documents, records, or memoranda of
438 any sponsor or supplier involved with poker tournaments for the purpose of satisfying itself that this
439 article and its regulations are strictly complied with. In addition, the Department may require the
440 production of an annual balance sheet and operating statement of any person granted a permit pursuant
441 to the provisions of this article and may require the production of any contract to which such person is
442 or may be a party.

443 4. The Department may issue subpoenas for the attendance of witnesses before it, administer oaths,
444 and compel production of records or other documents and testimony of such witnesses whenever, in the
445 judgment of the Department, it is necessary to do so for the effectual discharge of its duties.

446 5. The Department may compel any person sponsoring, operating, or managing poker tournaments to
447 file with the Department such documents, information, or data as shall appear to the Department to be
448 necessary for the performance of its duties.

449 6. The Department may enter into arrangements with any governmental agency of this or any other
450 state or any locality in the Commonwealth or any agency of the federal government for the purposes of
451 exchanging information or performing any other act to better ensure the proper conduct of poker
452 tournaments.

453 7. The Department shall report annually to the Governor and the General Assembly, which report
454 shall include a financial statement of the operation of the Department and any recommendations for
455 legislation applicable to poker tournaments in the Commonwealth.

456 8. The Department, its agents, and employees may conduct such audits, in addition to those required
457 by § 18.2-340.49, as they deem necessary and desirable.

458 9. The Department may report any alleged criminal violation of this article to the appropriate
459 attorney for the Commonwealth for appropriate action.

460 § 18.2-340.43. Regulations of the Board.

461 A. The Board shall adopt regulations that:

462 1. Prescribe fees for processing permit applications for poker tournaments. Such fees may reflect the
463 nature and extent of the poker tournament activity proposed to be conducted;

464 2. Establish requirements for the audit of all reports required in accordance with § 18.2-340.49;

465 3. Prescribe the conditions under which poker tournaments are conducted, including a provision
466 requiring a sponsor to obtain a permit for any poker tournament, and the registration of all managers
467 and operators of poker tournaments; and

468 4. Require the posting in a conspicuous place in every place where poker tournaments are conducted
469 a sign that bears a toll-free telephone number for "Gamblers Anonymous" or other organization that
470 provides assistance to compulsive gamblers.

471 § 18.2-340.44. Denial, suspension, or revocation of permit; hearings and appeals.

472 A. The Department may deny, suspend, or revoke the permit of any tournament sponsor found not to
473 be in strict compliance with the provisions of this article and the regulations of the Board only after the
474 proposed action by the Department has been reviewed and approved by the Board. The action of the
475 Department in denying, suspending, or revoking any permit shall be subject to the Administrative
476 Process Act (§ 2.2-4000 et seq.).

477 B. Except as provided in §§ 18.2-340.46, 18.2-340.48, and 18.2-340.54, no permit to conduct poker
478 tournaments shall be denied, suspended, or revoked except upon notice stating the proposed basis for
479 such action and the time and place for a hearing. At the discretion of the Department, hearings may be
480 conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of
481 the Supreme Court. After a hearing on the issues, the Department may refuse to issue or may suspend
482 or revoke any such permit if it determines that the sponsor has not complied with the provisions of this
483 article or the regulations of the Board.

484 C. Any person aggrieved by a refusal of the Department to issue any permit, the suspension or
485 revocation of a permit, or any other action of the Department may seek review of such action in
486 accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

487 § 18.2-340.45. Only poker tournaments permitted; prizes not gaming contracts.

488 A. This article permits the conduct of poker tournaments provided (i) a permit is issued by the
489 Department in accordance with § 18.2-340.46 and (ii) all managers and operators of a poker

5490 tournament are registered by the Department in accordance with § 18.2-340.52.

5491 B. The award of any prize money for any poker tournament shall not be deemed to be part of any
5492 gaming contract within the purview of § 11-14.

5493 § 18.2-340.46. Permit required; application fee; form of application.

5494 A. Prior to the commencement of any poker tournament, the tournament sponsor shall obtain a
5495 permit from the Department.

5496 B. All complete applications for a permit shall be acted upon by the Department within 45 days from
5497 the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the
5498 discretion of the Department, a permit may be issued. All permits when issued shall be valid for the
5499 period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for
5500 longer than one year. The permit application shall be a matter of public record.

5501 All permits shall be subject to regulation by the Department to ensure the public safety and welfare
5502 in the operation of the poker tournament. The permit shall only be granted after a reasonable
5503 investigation has been conducted by the Department. The Department may require any prospective
5504 permit holder or applicant to submit to fingerprinting and to provide personal descriptive information to
5505 be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal
5506 Bureau of Investigation for the purposes of obtaining criminal history record information regarding such
5507 permit holder or applicant. The Central Criminal Records Exchange, upon receipt of a permit holder or
5508 applicant record or notification that no record exists, shall forward the report to the Commissioner of
5509 the Department or his designee, who shall be an employee of the Department.

5510 C. In no case shall a tournament sponsor receive more than one permit allowing it to conduct poker
5511 tournaments.

5512 D. Application for a poker tournament permit shall be made on forms prescribed by the Department
5513 and shall be accompanied by payment of the fee for processing the application.

5514 E. Applications for renewal of permits shall be made in accordance with Board regulations. If a
5515 complete renewal application is received 45 days or more prior to the expiration of the permit, the
5516 permit shall continue to be effective until such time as the Department has taken final action. Otherwise,
5517 the permit shall expire at the end of its term.

5518 § 18.2-340.47. Conduct of poker tournaments.

5519 A. Only cash, checks, or debit cards in payment of any charges or assessments for players to
5520 participate in poker tournaments shall be accepted. However, no postdated checks in payment of any
5521 charges or assessments for players to participate in the tournaments shall be accepted.

5522 B. No tournament sponsor or any person on the premises shall extend lines of credit or accept any
5523 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
5524 for players to participate in the tournament.

5525 C. Poker tournaments may be held by tournament sponsors no more frequently than one calendar
5526 day in any calendar week.

5527 § 18.2-340.48. Reports of gross receipts and disbursements required; form of reports; failure to file.

5528 A. Each tournament sponsor shall keep a complete record of all inventory of tournament supplies
5529 purchased, all receipts from its poker tournament operation, and all disbursements related to such
5530 operation. Each sponsor shall file at least annually, on a form prescribed by the Department, a report
5531 of all such receipts and disbursements, the amount of money on hand attributable to the poker
5532 tournament as of the end of the period covered by the report, and any other information related to its
5533 poker tournament operations that the Department may require. All reports filed pursuant to this section
5534 shall be a matter of public record.

5535 B. All reports required by this section shall be filed on or before the date prescribed by the
5536 Department. The Board, by regulation, shall establish a schedule of late fees to be assessed for any
5537 sponsor who fails to submit required reports by the due date.

5538 C. Each tournament sponsor shall maintain for three years a complete written record of (i) the name
5539 and address of each individual to whom any prize from any poker tournaments is awarded, as well as
5540 the amount of the award, and (ii) an itemized record of all receipts and disbursements incurred in
5541 operating the tournament.

5542 D. The failure to file reports within 30 days of the time such reports are due shall cause the
5543 automatic revocation of the permit, and no sponsor shall conduct any tournament thereafter until the
5544 report is properly filed and a new permit is obtained. However, the Department may grant an extension
5545 of time for filing such reports for a period not to exceed 45 days if requested by sponsor, provided the
5546 sponsor requests an extension within 15 days of the time such reports are due and all projected fees are
5547 paid. For the term of any such extension, the sponsor's permit shall not be automatically revoked, the
5548 sponsor may continue to conduct poker tournaments, and no new permit shall be required.

5549 § 18.2-340.49. Audit of reports; audit and administration fee.

5550 A. All reports filed pursuant to § 18.2-340.48 shall be subject to audit by the Department in

551 accordance with Board regulations. The Department may engage the services of independent certified
552 public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities
553 under this article.

554 B. The Department shall prescribe a reasonable audit and administration fee to be paid by any
555 sponsor conducting poker tournaments under a permit issued by the Department. Such fee shall not
556 exceed 1.25 percent of the gross receipts that an organization reports pursuant to § 18.2-340.48. The
557 audit and administration fee shall accompany each report for each calendar quarter.

558 C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees
559 received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the
560 Department for the purposes of auditing and regulating poker tournaments.

561 § 18.2-340.50. Prohibited practices.

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

564 1. No building or other premises shall be utilized in whole or in part for the purpose of conducting
565 poker tournaments more frequently than one calendar day in any one calendar week.

566 2. No person shall participate in the management or operation of any poker tournament if he has
567 ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft,
568 or financial crimes within the preceding five years. No person shall participate in the conduct of any
569 poker tournament if, within the preceding 10 years, he has been convicted of any felony or if, within the
570 preceding five years, he has been convicted of any misdemeanor involving fraud, theft, or financial
571 crimes. In addition, no person shall participate in the management, operation, or conduct of any poker
572 tournament if that person, within the preceding five years, has participated in the management,
573 operation, or conduct of any poker tournament that was found by the Department or a court of
574 competent jurisdiction to have been operated in violation of state law, local ordinance, or Board
575 regulation.

576 3. A tournament sponsor shall not purchase any poker tournament supplies for use in the
577 Commonwealth from any person who is not currently registered with the Department as a supplier
578 pursuant to § 18.2-340.51.

579 § 18.2-340.51. Suppliers of poker tournament supplies; permit; qualification; suspension, revocation,
580 or refusal to renew certificate; maintenance, production, and release of records.

581 A. No person shall offer to sell, sell, or otherwise provide poker tournament supplies to any
582 tournament sponsor unless and until such person has made application for and has been issued a permit
583 by the Department. An application for permit shall be made on forms prescribed by the Department and
584 shall be accompanied by a fee in the amount of \$1,000. Each permit shall remain valid for a period of
585 one year from the date of issuance. Application for renewal of a permit shall be accompanied by a fee
586 in the amount of \$1,000 and shall be made on forms prescribed by the Department.

587 B. The Board may prescribe by regulation reasonable criteria consistent with the provisions of this
588 article for the registration of suppliers for poker tournaments. The Department may refuse to issue a
589 permit to any supplier if the supplier or any officer, director, partner, or owner of the supplier (i) has
590 been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been
591 convicted of any offense that, if committed in the Commonwealth, would be a felony; (ii) has been
592 convicted of or pleaded nolo contendere to a crime involving gambling; (iii) has had any license,
593 permit, certificate, or other authority related to activities defined as poker tournaments in the
594 Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; (iv) has failed
595 to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of
596 any taxes due the Commonwealth; or (v) has failed to establish a registered office or registered agent in
597 the Commonwealth if so required by § 13.1-634 or 13.1-763.

598 C. The Department may suspend, revoke, or refuse to renew the permit of any supplier for any
599 conduct described in subsection B or for any violation of this article or regulation of the Board. Before
600 taking any such action, the Department shall give the supplier a written statement of the grounds upon
601 which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case
602 shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

603 D. Each supplier shall document each sale of poker tournament supplies and other items incidental
604 to the conduct of poker to a sponsor on an invoice that clearly shows (i) the name and address of the
605 sponsor to which such supplies or items were sold, (ii) the date of the sale, and (iii) any other
606 information with respect to poker tournament supplies or other items incidental to the conduct of poker
607 tournaments as the Board may prescribe by regulation. A legible copy of the invoice shall accompany
608 the poker tournament supplies when delivered to the sponsor.

609 E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period
610 of three years from the date of sale. Each supplier shall make such documents immediately available for
611 inspection and copying to any agent or employee of the Department upon request made during normal
612 business hours. This subsection shall not limit the right of the Department to require the production of

any other documents in the possession of the supplier that relate to its transactions with tournament sponsors. All documents and other information of a proprietary nature furnished to the Department in accordance with this subsection 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.).

§ 18.2-340.52. Tournament managers and operators; registration required; qualification; suspension, revocation, or refusal to renew certificate.

A. No person shall manage or operate a poker tournament 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 \$100. 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 \$100 and shall be made on forms prescribed by the Department.

B. The Department may refuse to register any tournament manager or operator who has (i) 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; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate, or other authority related to activities defined as poker tournaments in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) 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 tournament manager or operator 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 manager or operator 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.).

§ 18.2-340.53. Assistance from Department of State Police.

The Department of the State Police, upon request of the Department, shall assist in the conduct of investigations by the Department.

§ 18.2-340.54. Criminal warrants; suspension of permit.

A. When any officer charged with the enforcement of the poker tournament laws of the Commonwealth has reasonable cause to believe that a poker tournament is being conducted in violation of this article or the regulations of the Board by any person required to have a permit or registration certificate, the officer may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit of the sponsor, manager, or operator conducting the poker tournament. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit, he shall suspend the permit. Immediately upon such suspension, the officer shall notify the violator in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the sponsor, manager, or operator, as applicable, within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the sponsor, manager, or operator, as applicable, consents to a later date. No poker tournament shall be conducted by the sponsor, manager, or operator, as applicable, until the suspension has been lifted by the Department or a court of competent jurisdiction.

§ 18.2-340.55. Criminal penalties.

A. Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report, or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report, or other document required to be filed with or made to the Department shall be guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

C. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

§ 18.2-340.56. Portion of gross receipts to the Commonwealth.

One percent of the gross receipts shall be paid by the tournament sponsor to the Department in accordance with Board regulation. All moneys collected by the Department pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

2. That the provisions of this act shall become effective on July 1, 2013, except that the provisions of § 2.2-2456 of this act shall become effective on July 1, 2012.