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SENATE BILL NO. 100

Offered January 13, 2016

Prefiled December 22, 2015

A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.31 of the Code of Virginia, relating to the Department of Agriculture and Consumer Services; charitable gaming; audit and administration fee; adjusted gross receipts.

Patron—Cosgrove

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.31 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:

"Adjusted gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, excluding prizes paid out.

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (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.

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

"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 Agriculture and Consumer Services.

"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 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 premises devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a

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59 landlord.

60 "Management" means the provision of oversight of a gaming operation, which may include, but is
61 not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling,
62 submitting and maintaining required records and financial reports, and ensuring that all aspects of the
63 operation are in compliance with all applicable statutes and regulations.

64 "Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

65 "Network bingo provider" means a person licensed by the Department to operate network bingo.

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

70 "Organization" means any one of the following:

71 1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit
72 thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the
73 political subdivision where the volunteer fire department or volunteer emergency medical services
74 agency is located as being a part of the safety program of such political subdivision;

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

76 3. An athletic association or booster club or a band booster club established solely to raise funds for
77 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
78 § 22.1-19 or to provide scholarships to students attending such school;

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

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

81 6. A local chamber of commerce; or

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

85 "Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised
86 of participating charitable organizations for the conduct of network bingo games in which the purchase
87 of a network bingo card by a player automatically includes the player in a pool with all other players in
88 the network, and where the prize to the winning player is awarded based on a percentage of the total
89 amount of network bingo cards sold in a particular network.

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

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

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

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

108 **§ 18.2-340.31. Audit of reports; exemption; audit and administration fee.**

109 A. All reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Department in
110 accordance with Board regulations. The Department may engage the services of independent certified
111 public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities
112 under this article.

113 B. The Department shall prescribe a reasonable audit and administration fee to be paid by any
114 organization conducting charitable gaming under a permit issued by the Department unless the
115 organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and
116 one-quarter percent of the *adjusted* gross receipts ~~which that~~ an organization reports pursuant to
117 § 18.2-340.30. The audit and administration fee shall accompany each report for each calendar quarter.

118 C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees
119 received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the
120 Department for the purposes of auditing and regulating charitable gaming.