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HOUSE BILL NO. 2707

Offered January 15, 2019

A *BILL to amend and reenact §§ 2.2-2456, 18.2-340.19, 18.2-340.27, and 18.2-340.33 of the Code of Virginia, relating to the Virginia Charitable Gaming Board; conduct of charitable gaming.*

Patron—Davis

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2456, 18.2-340.19, 18.2-340.27, and 18.2-340.33 of the Code of Virginia are amended and reenacted 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.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations;

2. *Perform an annual evaluation of the conduct of charitable gaming operations and activities in Virginia, including potential improvements to the quality and integrity of charitable gaming and the gaming experience. The Board shall submit any findings and recommendations to the Department of Agriculture and Consumer Services by September 30 of each year;*

3. 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

4. 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.

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations 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 nature and extent of the charitable gaming activity proposed to be conducted.

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

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. *The Board's regulations shall authorize up to 50 individual devices of*

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59 *electronic or mechanical equipment for instant bingo, pull tabs, or seal cards to be located in the*
60 *portion of the premises owned or exclusively leased by a qualified organization where access is limited*
61 *to members of the organization and their guests.*

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

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

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

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

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

79 11. Prescribe the conditions under which a qualified organization may sell network bingo cards in
80 accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo
81 sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the
82 network bingo provider. The regulations shall also establish procedures for the retainage and ultimate
83 distribution of any unclaimed prize.

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

89 **§ 18.2-340.27. Conduct of bingo games.**

90 A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment
91 of any charges or assessments for players to participate in bingo games. However, no such organization
92 shall accept postdated checks in payment of any charges or assessments for players to participate in
93 bingo games.

94 B. No qualified organization or any person on the premises shall extend lines of credit or accept any
95 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
96 for players to participate in bingo games.

97 C. Bingo games may be held by qualified organizations no more frequently than ~~two~~ four calendar
98 days in any calendar week, except in accordance with § 18.2-340.27:1.

99 D. ~~No more than two sessions of bingo games may be held by qualified organizations in~~ *Qualified*
100 *organizations may hold an unlimited number of bingo sessions on any calendar day, nor shall there be*
101 *more than 55 bingo games per session.*

102 E. Any organization may conduct bingo games only in the county, city or town or in any adjoining
103 county, city or town in which they regularly have been in existence or met. The Department may
104 approve exceptions to this requirement where there is a special circumstance or documented need.

105 **§ 18.2-340.33. Prohibited practices.**

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

108 1. No part of the gross receipts derived by a qualified organization may be used for any purpose
109 other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii)
110 those lawful religious, charitable, community or educational purposes for which the organization is
111 specifically chartered or organized, and (iv) expenses relating to the acquisition, construction,
112 maintenance, or repair of any interest in the real property involved in the operation of the organization
113 and used for lawful religious, charitable, community or educational purposes. For the purposes of clause
114 (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the
115 real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a
116 tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the
117 qualified organization is identical to such holding entity.

118 2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or
119 otherwise employ for compensation any person for the purpose of organizing, managing, or conducting
120 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~~ four calendar days in any one calendar week. However, ~~no~~ any building or other premises owned by (i) a qualified organization ~~which~~ that is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code or (ii) any county, city, or town ~~shall~~ may be utilized in whole or in part for the purpose of conducting bingo games ~~more frequently than four~~ without limitation regarding the number of calendar days ~~in any one calendar~~ within a given week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27:1.

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;

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; and

f. ~~Volunteers~~ Remuneration may be paid to members of a qualified organization ~~may be reimbursed for their reasonable and necessary travel expenses~~, not to exceed \$50 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,

182 distributor or supplier of bingo supplies or equipment be used by the organization.

183 The provisions of this subdivision shall not apply to any qualified organization conducting bingo
184 games on its own behalf at premises owned by it.

185 8. No qualified organization shall enter into any contract with or otherwise employ or compensate
186 any member of the organization on account of the sale of bingo supplies or equipment.

187 9. No organization shall award any bingo prize money or any merchandise valued in excess of the
188 following amounts:

189 a. No bingo door prize shall exceed \$50 for a single door prize or \$250 in cumulative door prizes in
190 any one session;

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

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

193 d. Except as provided in subdivision 9, no bingo jackpot of any nature whatsoever shall exceed
194 \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000.
195 Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted
196 for separately from the bingo cards or sheets used for any other bingo games; and

197 e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo
198 cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

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

200 Any progressive bingo game, in which (a) a regular or special prize, not to exceed \$100, is awarded
201 on the basis of predetermined numbers or patterns selected at random and (b) a progressive prize, not to
202 exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded
203 if the predetermined numbers or patterns are covered when a certain number of numbers is called,
204 provided (i) there are no more than six such games per session per organization, (ii) the amount of
205 increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in
206 such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the
207 organization separately accounts for the proceeds from such sale, and (v) such games are otherwise
208 operated in accordance with the Department's rules of play.

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

210 The provisions of this subdivision shall not apply to a raffle conducted no more than three times per
211 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of
212 the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100
213 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost
214 of acquisition of the land and materials, are donated to lawful religious, charitable, community, or
215 educational organizations specifically chartered or organized under the laws of the Commonwealth and
216 qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any
217 one geographical region of the Commonwealth.

218 12. No qualified organization composed of or for deaf or blind persons which employs a person not
219 a member to provide clerical assistance in the management and operation but not the conduct of any
220 charitable games shall conduct such games unless it has in force fidelity insurance, as defined in §
221 38.2-120, written by an insurer licensed to do business in the Commonwealth.

222 13. No person shall participate in the management or operation of any charitable game if he has ever
223 been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or
224 financial crimes within the preceding five years. No person shall participate in the conduct of any
225 charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the
226 preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial
227 crimes. In addition, no person shall participate in the management, operation or conduct of any
228 charitable game if that person, within the preceding five years, has participated in the management,
229 operation, or conduct of any charitable game which was found by the Department or a court of
230 competent jurisdiction to have been operated in violation of state law, local ordinance or Board
231 regulation.

232 14. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not
233 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were
234 conducting such games. These restrictions and prohibitions shall include, but not be limited to, the
235 frequency with which bingo games may be held, the value of merchandise or money awarded as prizes,
236 or any other practice prohibited under this section.

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

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