

20106902D

SENATE BILL NO. 199

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 29, 2020)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact §§ 18.2-340.19, 18.2-340.24, 18.2-340.25, 18.2-340.27 through 18.2-340.28:1, and 18.2-340.33 of the Code of Virginia, relating to the conduct of charitable gaming.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.19, 18.2-340.24, 18.2-340.25, 18.2-340.27 through 18.2-340.28:1, and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:

§ 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.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo; (ii) permit members who participate in the management, operation or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

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

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

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

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

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo

60 sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the
61 network bingo provider. The regulations shall also establish procedures for the retainage and ultimate
62 distribution of any unclaimed prize.

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

68 **§ 18.2-340.24. Eligibility for permit; exceptions; where valid.**

69 A. To be eligible for a permit to conduct charitable gaming, an organization shall:

70 1. Have been in existence and met on a regular basis in the Commonwealth for a period of at least
71 three years immediately prior to applying for a permit.

72 The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or
73 international fraternal order or of a national or international civic organization which is exempt under
74 § 501(c) of the United States Internal Revenue Code and which has a lodge or chapter holding a
75 charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth;
76 (ii) to booster clubs which have been operating for less than three years and which have been
77 established solely to raise funds for school-sponsored activities in public schools or private schools
78 accredited pursuant to § 22.1-19; (iii) to recently established volunteer fire and rescue companies or
79 departments, after county, city or town approval; or (iv) to an organization which relocates its meeting
80 place on a permanent basis from one jurisdiction to another, complies with the requirements of
81 subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

82 2. Be operating currently and have always been operated as a nonprofit organization.

83 3. Have at least 50 percent of its membership consist of residents of the Commonwealth; however, if
84 an organization (i) does not consist of bona fide members and (ii) is exempt under § 501(c)(3) of the
85 United States Internal Revenue Code, the Board shall exempt such organizations from the requirements
86 of this subdivision.

87 B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to
88 exceed \$40,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501(c) of
89 the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal
90 Revenue Service, the same documentation may be filed with the Department in conjunction with an
91 application for a charitable gaming permit. If such documentation is filed, the Department may, after
92 reviewing such documentation it deems necessary, issue a charitable gaming permit.

93 C. A permit shall be valid only for the locations, dates, and times designated in the permit.

94 **§ 18.2-340.25. Permit required; application fee; form of application.**

95 A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an
96 organization shall obtain a permit from the Department.

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

102 All permits shall be subject to regulation by the Department to ensure the public safety and welfare
103 in the operation of charitable games. The permit shall only be granted after a reasonable investigation
104 has been conducted by the Department. The Department may require any prospective employee, permit
105 holder or applicant to submit to fingerprinting and to provide personal descriptive information to be
106 forwarded along with employee's, licensee's or applicant's fingerprints through the Central Criminal
107 Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history
108 record information regarding such prospective employee, permit holder or applicant. The Central
109 Criminal Records Exchange upon receipt of a prospective employee, licensee or applicant record or
110 notification that no record exists, shall forward the report to the Commissioner of the Department or his
111 designee, who shall belong to a governmental entity. However, nothing in this subsection shall be
112 construed to require the routine fingerprinting of volunteer bingo workers.

113 C. In no case shall an organization receive more than one permit allowing it to conduct charitable
114 gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant
115 to § 18.2-340.27.1.

116 D. Application for a charitable gaming permit shall be made on forms prescribed by the Department
117 and shall be accompanied by payment of the fee for processing the application.

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

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 18.2-340.27. Conduct of bingo games.

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

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

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

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

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

§ 18.2-340.27:1. Special permits; electronic versions of instant bingo, pull tabs, or seal cards.

A. A special permit may be granted to a qualified organization that entitles it to conduct more frequent operations of bingo games during carnivals, fairs, and state, federal, or religious holidays, which shall be designated in the permit.

B. A special permit may be granted to a qualified organization to conduct gaming to replace an approved game that falls on a legal holiday pursuant to § ~~2.2-3300~~. The special permit shall designate a date for the replacement game to occur within either (i) 90 days before or (ii) 90 days after such legal holiday for which the special permit is requested.

C. A special permit may be granted to a qualified organization to conduct gaming to replace an approved game that has been canceled by the qualified organization on account of severe weather conditions in the locality in which the approved game was scheduled to occur, provided that (i) the qualified organization notifies the Department within 24 hours of the canceled approved game and (ii) the Department is satisfied that the severe weather conditions warranted cancellation. The special permit shall designate a date for the replacement game to occur within 90 days after the date of the canceled game for which the special permit is requested.

A special permit shall be granted to a qualified organization that has been issued a permit by the Department pursuant to § 18.2-340.25 to allow such organization to place up to four Department-approved electronic versions of instant bingo, pull tabs, or seal cards on the licensed premises of an entity licensed to sell alcoholic beverages for on-premises consumption pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1, with the consent of such licensee. No qualified organization granted a special permit pursuant to this section shall be required to comply with the provisions of subdivision 10 of § 18.2-340.18, subdivisions 2 and 6 of § 18.2-340.33, or regulations promulgated by the Board pursuant to subdivision A 1 of § 18.2-340.19 as they relate to the management, operation, or conduct of charitable games pursuant to such special permit.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo, network bingo, pull tabs, or seal cards as a part of such bingo game and, if a permit is required pursuant to § 18.2-340.25, such games shall be played only at such ~~location and at such~~ times as designated in the permit for regular bingo games.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

§ 18.2-340.28:1. Conduct of network bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may

183 sell network bingo cards as a part of a regular bingo game and, if a permit is required pursuant to
184 § 18.2-340.25, network bingo shall be sold only at such location and at such times as designated in the
185 permit for regular bingo games.

186 B. Any organization selling network bingo cards shall maintain a record of the date and quantity of
187 network bingo cards purchased from a licensed network bingo provider. The organization shall also
188 maintain a written invoice or receipt from a licensed supplier verifying any information required by this
189 subsection. Such supplies shall be paid for only by check drawn on the gaming account of the
190 organization or by electronic fund transfer. A complete inventory of all such gaming supplies shall be
191 maintained by the organization on the premises where network bingo cards are sold.

192 C. No qualified organization shall sell any network bingo cards to any individual younger than 18
193 years of age. No individual younger than 18 years of age shall play or redeem any network bingo cards.

194 D. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment
195 of any charges or assessments for players to participate in any network bingo game. However, no such
196 organization shall accept postdated checks in payment of any charges or assessments for players to
197 participate in network bingo games.

198 E. No qualified organization or any person on the premises shall extend lines of credit or accept any
199 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
200 for players to participate in network bingo games.

201 F. No qualified organization shall conduct network bingo more frequently than one day in any
202 calendar week, which shall not be the same day of each week.

203 G. No network bingo games shall be permitted in the social quarters of an organization that are open
204 only to the organization's members and their guests.

205 H. No qualified organization shall sell network bingo cards on the Internet or other online service or
206 allow the play of network bingo on the Internet or other online service. However, the location where
207 network bingo games are conducted shall be equipped with a video monitor, television, or video screen,
208 or any other similar means of visually displaying a broadcast or signal, that relays live, real-time video
209 of the numbers as they are called by a live caller. The Internet or other online service may be used to
210 relay information about winning players.

211 I. Qualified organizations may award network bingo prizes on a graduated scale; however, no single
212 network bingo prize shall exceed \$25,000.

213 J. Nothing in this section shall be construed to prohibit an organization from participating in more
214 than one network bingo network.

215 **§ 18.2-340.33. Prohibited practices.**

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

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

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

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

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

240 4. No building or other premises shall be utilized in whole or in part for the purpose of conducting
241 charitable gaming more frequently than two calendar days in any one calendar week. However, no
242 building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant
243 to § 501(c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in
244 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 § 18.2-340.27:1.

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. 5. 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 of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed \$50 per session.

7. 6. 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. 7. 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. 8. 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 \$1,000;

d. Except as provided in *this* subdivision 9 8, 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 single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

~~10- 9.~~ The provisions of subdivision ~~9 8~~ 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- 10.~~ 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 three times 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. No more than one such raffle shall be conducted in any one geographical region of the Commonwealth.

~~12- 11.~~ 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- 12.~~ 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- 13.~~ 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- 14.~~ 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- 15.~~ 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.