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SENATE BILL NO. 936

Senate Amendments in [] - February 7, 2020

A BILL to amend and reenact §§ 18.2-334.2, 18.2-340.16, 18.2-340.19, 18.2-340.22, and 37.2-304 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.28:2 and by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, relating to charitable gaming; Texas Hold'em poker tournaments.

Patron Prior to Engrossment—Senator Petersen

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-334.2, 18.2-340.16, 18.2-340.19, 18.2-340.22, and 37.2-304 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.28:2 and by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1 as follows:

§ 18.2-334.2. Same; bingo games, raffles, duck races, and Texas Hold'em poker tournaments conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, network bingo, raffle, or duck race, or Texas Hold'em poker tournament conducted solely by organizations as defined in § 18.2-340.16 which have received a permit as set forth in § 18.2-340.25, or which are exempt from the permit requirement under § 18.2-340.23.

§ 18.2-340.16. Definitions.

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 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, Texas Hold'em poker tournaments, 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, playing cards for Texas Hold'em poker, poker chips, 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

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59 equipment.

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

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

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

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

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

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

76 "Organization" means any one of the following:

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

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

82 3. An athletic association or booster club or a band booster club established solely to raise funds for
83 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
84 § 22.1-19 or to provide scholarships to students attending such school;

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

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

87 6. A local chamber of commerce; or

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

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

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

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

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

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

114 "Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards face
115 down that may be used individually; (ii) five cards shown face up are shared among all players in the
116 game; (iii) players combine any number of their individual cards with the shared cards to make the
117 highest five-card hand to win the value wagered during the game; and (iv) the ranking of hands and the
118 rules of the game are governed by the official rules of the Poker Tournament Directors Association.

119 "Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i)
120 who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in

the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 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. *In the case of the conduct of Texas Hold'em poker tournaments, the regulations shall provide that the predetermined percentage of gross receipts may be used for expenses related to compensating operators contracted by the qualified organization to administer such events.* 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 13 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 sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. *Prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.*

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

187 **§ 18.2-340.22. Only raffles, bingo, network bingo, instant bingo games, and Texas Hold'em**
188 **poker tournaments permitted; prizes not gaming contracts.**

189 A. This article permits qualified organizations to conduct raffles, bingo, network bingo, ~~and~~ instant
190 bingo games, ~~and Texas Hold'em poker tournaments~~. All games not explicitly authorized by this article
191 or Board regulations adopted in accordance with § 18.2-340.18 are prohibited. *Nothing herein shall be*
192 *construed to authorize the Board to approve the conduct of any other form of poker in the*
193 *Commonwealth.*

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

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

199 **§ 18.2-340.28:2. Conduct of Texas Hold'em poker tournaments by qualified organizations;**
200 **limitation of operator fee; percentage of gross receipts to Problem Gambling Treatment Fund;**
201 **conditions.**

202 A. *Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct Texas*
203 *Hold'em poker tournaments. The Board shall promulgate regulations establishing circumstances under*
204 *which organizations qualified to conduct bingo games prior to July 1, 2019, may conduct Texas*
205 *Hold'em poker tournaments.*

206 B. *A qualified organization may contract with an operator to administer Texas Hold'em poker*
207 *tournaments. Limitations on operator fees shall be established by Board regulations.*

208 C. *One-half of one percent of the total gross receipts shall be paid to the Problem Gambling*
209 *Treatment and Support Fund established pursuant to § 37.2-314.1.*

210 D. *A qualified organization shall accept only cash or, at its option, checks in payment of any*
211 *charges or assessments for players to participate in Texas Hold'em poker tournaments. However, no*
212 *such organization shall accept postdated checks in payment of any charges or assessments for players to*
213 *participate in Texas Hold'em poker tournaments.*

214 E. *No qualified organization or any person on the premises shall extend lines of credit or accept any*
215 *credit or debit card or other electronic fund transfer in payment of any charges or assessments for*
216 *players to participate in Texas Hold'em poker tournaments.*

217 F. *No qualified organization shall allow any individual younger than 18 years of age to participate*
218 *in Texas Hold'em poker tournaments.*

219 *[G. Notwithstanding any provision of law to the contrary, the authorization for any qualified*
220 *organization to conduct Texas Hold'em poker tournaments shall cease 30 days after the effective date of*
221 *any law passed by the General Assembly legalizing any form of poker in the Commonwealth.]*

222 **§ 37.2-304. Duties of Commissioner.**

223 The Commissioner shall be the chief executive officer of the Department and shall have the
224 following duties and powers:

225 1. To supervise and manage the Department and its state facilities.

226 2. To employ the personnel required to carry out the purposes of this title.

227 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
228 the Department's duties and the execution of its powers under this title, including contracts with the
229 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
230 consistent with policies and regulations of the Board and applicable federal and state statutes and
231 regulations.

232 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
233 United States government, agencies and instrumentalities thereof, and any other source, subject to the
234 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
235 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
236 policies and regulations of the Board.

237 5. To accept, execute, and administer any trust in which the Department may have an interest, under
238 the terms of the instruments creating the trust, subject to the approval of the Governor.

239 6. To transfer between state hospitals and training centers school-age individuals who have been
240 identified as appropriate to be placed in public school programs and to negotiate with other school
241 divisions for placements in order to ameliorate the impact on those school divisions located in a
242 jurisdiction in which a state hospital or training center is located.

243 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,

established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department within 15 working days of the critical incident, serious injury, or death.

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. *To administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.*

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem Gambling Treatment and Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

2. That the Charitable Gaming Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Charitable Gaming Board shall provide an opportunity for public comment on the regulations prior to adoption.

[3. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2020 by the General Assembly that becomes law.]