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SENATE BILL NO. 401

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 2, 2022)

(Patron Prior to Substitute—Senator Bell)

A BILL to amend and reenact §§ 18.2-340.16 and 58.1-4002 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-340.35:1 and 58.1-4005.1, relating to enforcement of illegal gaming laws; Charitable Gaming Fund established.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 58.1-4002 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-340.35:1 and 58.1-4005.1 as follows:

§ 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.

"Fund" means the Charitable Gaming Fund established under § 18.2-340.35:1.

"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 landlord.

"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,

60 submitting, and maintaining required records and financial reports; and ensuring that all aspects of the
61 operation are in compliance with all applicable statutes and regulations.

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

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

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

68 "Organization" means any one of the following:

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

73 2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
74 Code, is operated, and has always been operated, exclusively for educational purposes, and awards
75 scholarships to accredited public institutions of higher education or other postsecondary schools licensed
76 or certified by the Board of Education or the State Council of Higher Education for Virginia;

77 3. An athletic association or booster club or a band booster club established solely to raise funds for
78 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
79 § 22.1-19 or to provide scholarships to students attending such school;

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

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

82 6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
83 Code and is operated, and has always been operated, exclusively to provide services and other resources
84 to older Virginians, as defined in § 51.5-116;

85 7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
86 Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

87 8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
88 Code and is operated, and has always been operated, exclusively to provide health care services or
89 conduct medical research;

90 9. An accredited public institution of higher education or other postsecondary school licensed or
91 certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt
92 from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

93 10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the
94 Internal Revenue Code;

95 11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the
96 Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and
97 foster a spirit of understanding among the people of the world; (ii) promote the principles of good
98 government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare
99 of the community; (iv) provide a forum for the open discussion of matters of public interest; (v)
100 encourage individuals to serve the community without personal financial reward; and (vi) encourage
101 efficiency and promote high ethical standards in commerce, industries, professions, public works, and
102 private endeavors;

103 12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
104 Code and is operated, and has always been operated, exclusively to (i) raise awareness of
105 law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement
106 Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that
107 are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

108 13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
109 Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the
110 environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of
111 science and technology to advance the conservation of the environment, caves, or other natural
112 resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources
113 or provide grant opportunities to other nonprofit organizations that are devoted to such conservation
114 efforts;

115 14. A local chamber of commerce; or

116 15. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the
117 Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or
118 seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less
119 expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes.
120 Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included
121 when calculating an organization's annual gross receipts for the purposes of this subdivision.

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

"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.

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

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) 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.

§ 18.2-340.35:1. Charitable Gaming Fund; adjustment of fees.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Charitable Gaming Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accruing to the Fund under the provisions of this article, all funds appropriated to the Fund, and any gifts, donations, grants, bequests, and other funds received on its behalf 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 or distributed as provided in subsection C. Expenditures and disbursements from the Fund, except funds accruing to the Virginia Lottery pursuant to subdivision C 2, to the Problem Gambling Treatment and Support Fund under subdivision C 3, or to the general fund under subdivision C 4, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee.

B. All fees and penalties collected by the Department pursuant to the provisions of this article shall accrue to the Fund.

C. Moneys in the Fund shall be distributed as follows:

1. Fifty percent shall be allocated to the Department to fund costs of administration of this article;
2. Five percent shall be allocated to the Virginia Lottery to fund the costs of the office of the Illegal Gaming Enforcement Coordinator established under § 58.1-4005.1;
3. One percent shall be allocated to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2; and

4. Forty-four percent shall be allocated to the general fund.

D. Following the close of any biennium, when the Fund shows expenses to fund the costs of (i) administration of this article pursuant to subdivision C 1 and (ii) the office of the Illegal Gaming Enforcement Coordinator pursuant to subdivision C 2 allocated to it for the past biennium to be more than 10 percent greater or less than the fees collected on behalf of the Department, the Department

shall revise the fees levied by it for placement into the Fund so that the fees are sufficient but not excessive to cover expenses pursuant to subdivisions C 1 and 2.

§ 58.1-4002. Definitions.

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

"Board" means the Virginia Lottery Board established by this chapter.

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Coordinator" means the Illegal Gaming Enforcement Coordinator.

"Department" means the independent agency responsible for the administration of the Virginia Lottery pursuant to this article and sports betting pursuant to Article 2 (§ 58.1-4030 et seq.).

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.

"Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4005.1. Illegal Gaming Enforcement Coordinator.

A. For purposes of this section, "illegal gaming laws" means the laws regulating gambling under Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2, charitable gaming under Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, lottery games under Article 1 (§ 58.1-4000 et seq.) of Chapter 40 of Title 58.1, sports betting under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, casino gaming under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, fantasy contests under Chapter 51 (§ 59.1-556 et seq.) of Title 59.1, horse racing and pari-mutuel wagering under Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any regulations promulgated pursuant to such laws, and any other federal, state, or local laws the Illegal Gaming Enforcement Coordinator deems relevant.

B. The Director shall designate a Department employee to serve as the Illegal Gaming Enforcement Coordinator. The purpose of the office of the Coordinator shall be to synchronize the enforcement of illegal gaming laws by state and local law enforcement, and to serve as a liaison between such agencies and federal law enforcement.

C. The Coordinator shall have the following duties:

1. Coordinating enforcement of the Commonwealth's illegal gaming laws by the Virginia State Police, the Department of Agriculture and Consumer Services, and all other state agencies; attorneys for the Commonwealth; and local law enforcement;

2. Acting as a liaison between the federal government and the agencies identified in subdivision 1 for purposes of any federal investigation into illegal gaming activities;

3. Establishing, advertising, and administering a tip line, which may be accessed by phone and by Internet, for members of the public to report concerns about, or suspected instances of, illegal gaming activities; and

4. Performing any other duties as are necessary to promote and enable the equitable enforcement of illegal gaming laws in the Commonwealth.

2. That the Code of Virginia is amended by adding a section numbered 18.2-340.35:1 as follows:

§ 18.2-340.35:1. Charitable Gaming Fund; adjustment of fees.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Charitable Gaming Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accruing to the Fund under the provisions of this article, all funds appropriated to the Fund, and any gifts, donations, grants, bequests, and other funds received on its behalf 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 or distributed as provided in subsection C. Expenditures and disbursements from the Fund, except funds accruing to the Virginia Lottery pursuant to subdivision C 2, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee.

B. All fees and penalties collected by the Department pursuant to the provisions of this article shall accrue to the Fund.

C. Moneys in the Fund shall be distributed as follows:

1. Ninety-five percent shall be allocated to the Department to fund costs of administration of this article; and

2. Five percent shall be allocated to the Virginia Lottery to fund the costs of the office of the Illegal Gaming Enforcement Coordinator established under § 58.1-4005.1.

D. Following the close of any biennium, when the Fund shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than the fees collected on behalf of the Department, the Department shall revise the fees levied by it for placement into the Fund so that the fees are sufficient but not excessive to cover expenses pursuant to subsection C.

3. That the provisions of the second enactment of this act shall become effective on July 1, 2024.