

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 593

An Act to amend and reenact §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.24:1, relating to charitable gaming; exemptions from certain requirements for specified organizations.

[S 1235]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.24:1 as follows:

§ 18.2-340.23. Organizations exempt from certain fees and reports.

A. No organization that reasonably expects, based on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less from all charitable gaming other than raffles on a total of no more than seven days per calendar year shall be required to register with the Department pursuant to the provisions of § 18.2-340.24:1.

C. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000 as described in subsection A or actual gross receipts from all charitable gaming other than raffles conducted on a total of no more than seven days per calendar year exceed \$40,000 as described in subsection B, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.

D. Any (i) organization described in subdivision 15 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 15 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

E. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Department regulations.

§ 18.2-340.24:1. Registration requirements; certain organizations.

A. Any organization seeking to conduct charitable gaming in accordance with subsection B of § 18.2-340.23 shall first register with the Department on a form prescribed by the Department. The Department shall only require the organization to provide (i) proof of the organization's nonprofit status; (ii) contact information for the chief executive officer of the organization or his designee; (iii) the location, dates, and times of any expected charitable gaming activity; (iv) a description of the general nature of the anticipated charitable gaming activity; and (v) a signed attestation that the organization (a) does not reasonably expect to realize more than \$40,000 in gross receipts on a total of no more than seven days per calendar year for the charitable gaming activities listed on the registration form, (b) understands that should the organization exceed the \$40,000 threshold, it will be required to file the report in accordance with § 18.2-340.30, and (c) understands it shall be required to comply with the provisions of this article and Department regulations.

B. Any organization that registers with the Department pursuant to this section is subject to random audits of its charitable gaming activities by the Department and is subject to the penalties specified in

§§ 18.2-340.36 and 18.2-340.37 for gross violations of this article.

C. The Department may deny, suspend, or revoke the registration of any organization found not to be in compliance with the provisions of this article and Department regulations. The action of the Department in denying, suspending, or revoking any registration shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

D. Any person aggrieved by the denial, suspension, or revocation of a registration or any other action of the Department may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 18.2-340.26:2. Sale of instant bingo, pull tabs, or seal cards dispensed by mechanical equipment.

As a part of its annual ~~fund-raising~~ fundraising event, any qualified organization ~~that is an athletic association or booster club or a band booster club~~ may sell instant bingo, pull tabs, or seal cards, provided that (i) *any such instant bingo, pull tabs, or seal cards are dispensed by mechanical equipment only*; (ii) *the sale of the same is limited to a single event in a of no more than seven days per calendar year and (ii) the*; (iii) *any such event is open to the public*; and (iv) *no such organization realizes actual gross receipts of more than \$40,000 from the conduct of all charitable gaming other than raffles on a total of no more than seven days per calendar year*. Notwithstanding the provisions of § 18.2-340.28, an organization authorized under this section shall not be required to sell such instant bingo, pull tabs, or seal cards at such times designated in the permit for regular bingo games or at a location at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27. If any organization's actual gross receipts from the sale of instant bingo, pull tabs, or seal cards pursuant to this section exceed \$40,000, the Department shall require the organization to obtain a permit pursuant to the provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30. The Department may require organizations authorized under this section to make such financial reporting as it deems necessary.

Nothing in this section shall be construed as exempting organizations authorized to sell instant bingo, pull tabs, or seal cards under this section from any other provisions of this article or other Department regulations.

§ 18.2-340.30. Reports of gross receipts, electronic gaming adjusted gross receipts, and disbursements required; form of reports; failure to file.

A. 1. Each qualified organization shall keep a complete record of all:

- a. Inventory of charitable gaming supplies purchased.
- b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered.
- c. Electronic gaming adjusted gross receipts.
- d. Disbursements related to charitable gaming and electronic gaming operations, including a breakdown of disbursements for each purpose specified in subdivision 1 of § 18.2-340.33.

2. Except as provided in §§ 18.2-340.23 and 18.2-340.30:2, each qualified organization shall file under penalty of perjury and at least annually, on a form prescribed by the Department, a report of all receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report, and any other information related to its charitable gaming operation that the Department may require. In addition, the Commissioner, by regulation, may require any qualified organization, *except any qualified organization that realizes annual gross receipts of \$40,000 or less*, whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Department. The Commissioner, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Department shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Department.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Department; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Department may

grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 18.2-340.36. Suspension of permit and registration.

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or Department regulations, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit *or registration* of the organization conducting ~~the bingo game or raffle~~ *charitable gaming*. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit *or registration*, he shall suspend the permit *or registration*. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Department or a court of competent jurisdiction.