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SENATE BILL NO. 1527

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 1, 2023)

(Patron Prior to Substitute—Senator Rouse)

A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia, relating to charitable gaming; definitions; organization; social organization.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia are amended and reenacted 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.

"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. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"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 (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.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"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 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 that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by 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.

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

64 "Management" means the provision of oversight of a gaming operation, which may include the
65 responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and
66 maintaining required records and financial reports, and ensuring that all aspects of the operation are in
67 compliance with all applicable statutes and regulations.

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

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

70 "Operation" means the activities associated with production of a charitable gaming or electronic
71 gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming
72 and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming
73 and electronic gaming designated by the organization's management.

74 "Organization" means any one of the following:

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

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

83 3. An athletic association or booster club or a band booster club established solely to raise funds for
84 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
85 § 22.1-19 or to provide scholarships to students attending such school;

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

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

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

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

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

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

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

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

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

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

121 14. An organization established on or before December 31, 1963, that is exempt from income tax

pursuant to § 501(c)(7) of the Internal Revenue Code and that has been or has a reasonable propensity to be negatively impacted by the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth;

15. A local chamber of commerce; or

~~15.~~ 16. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included 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 Department 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 may qualify as a business expense, if so determined by the Department. 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.

"Social organization" means any qualified organization that provides certification to the Department that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. An organization established on or before December 31, 1963, that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code and that has been or has a reasonable propensity to be negatively impacted by the Public Assemblages Act of 1926;

3. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

~~3.~~ 4. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue Code; or

4. 5. A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Department, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

"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

183 highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the
184 rules of the game are governed by the official rules of the Poker Tournament Directors Association.

185 "Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i)
186 who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in
187 the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the
188 competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one
189 or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker
190 chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of
191 value according to how long such players remain in the competition.

192 **§ 18.2-340.23. Organizations exempt from certain fees and reports.**

193 A. No organization that reasonably expects, based on prior charitable gaming annual results or any
194 other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from
195 raffles conducted in accordance with the provisions of this article shall be required to (i) notify the
196 Department of its intention to conduct raffles or (ii) comply with Department regulations governing
197 raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000,
198 the Department shall require the organization to file by a specified date the report required by
199 § 18.2-340.30.

200 B. Any (i) organization described in subdivision 15 16 of the definition of "organization" in
201 § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or
202 auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or
203 resolution of the political subdivision where the volunteer fire department or volunteer emergency
204 medical services agency is located as being part of the safety program of such political subdivision shall
205 be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees
206 required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic
207 gaming shall be subject to such application fees and audit fees for its electronic gaming activities;
208 however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the
209 organization or the electronic gaming manufacturer whose electronic gaming devices are present on the
210 premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed
211 as exempting any organizations described in subdivision 15 16 of the definition of "organization" in
212 § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any
213 other provisions of this article or other Department regulations.

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