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## HOUSE BILL NO. 2518

Offered January 20, 1997

*A BILL to amend and reenact §§ 18.2-340.19, 18.2-340.31, and 18.2-340.33 of the Code of Virginia, relating to the conduct of charitable gaming.*

\_\_\_\_\_  
Patron—Marshall

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Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-340.19, 18.2-340.31, and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-340.19. Regulations of the Commission.

The Commission shall adopt regulations which:

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 Commission finds appropriate to and consistent with the purpose of charitable gaming.

2. Require the organization to have at least fifty percent of its membership consist of residents of the Commonwealth and specify the conditions under which a complete list of the organization's membership may be required in order for the Commission to ascertain the percentage of Virginia residents; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal Revenue Code, the Commission shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Commission 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 (§ 2.1-340 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.

6. *Establish conditions under which a qualified organization may permit its members who participate in the management, operation or conduct of bingo to play bingo.*

§ 18.2-340.31. Audit of reports; exemption; fee.

A. Except as provided in § 18.2-340.23, all reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Commission in accordance with Commission regulations.

B. The Commission shall prescribe a reasonable audit fee ~~not to exceed~~ *reflecting* the actual cost of the audit if the audit is conducted by an independent auditor or accountant, or if the audit is conducted by the Commission, ~~two such fee shall not exceed two-tenths of one percent of~~ (i) the gross receipts which an organization reports pursuant to § 18.2-340.30 and (ii) the interest income on money the organization has received from charitable gaming operations. The audit fee shall accompany each annual report.

C. The audit fee shall be payable to the Commission. All audit fees received by the Commission shall be separately accounted for and shall be used only for the purposes of auditing and regulating charitable gaming.

§ 18.2-340.33. Prohibited practices.

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

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (v) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. *For the purposes of clause (v), such expenses may include the expenses of a corporation formed for the purpose*

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60 of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity  
61 is qualified as a tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code  
62 and (b) the membership of the qualified organization is identical to such holding entity.

63 2. No qualified organization shall enter into a contract with, or otherwise employ for compensation  
64 any person for the purpose of organizing, managing, or conducting any charitable games. However,  
65 organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs  
66 associated with providing clerical assistance in the conduct of charitable gaming.

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

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

74 4. No building or other premises shall be utilized in whole or in part for the purpose of conducting  
75 bingo games more frequently than two calendar days in any one calendar week. However, no building  
76 or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501  
77 (c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for  
78 the purpose of conducting bingo games more frequently than four calendar days in any one calendar  
79 week.

80 The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special  
81 permit issued in accordance with § 18.2-340.27.

82 5. No person shall participate in the management, operation or conduct of any charitable game unless  
83 such person is and, for a period of at least ninety days immediately preceding such participation, has  
84 been a bona fide member of the organization; however, the provisions of this subdivision shall not apply  
85 to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind  
86 persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees'  
87 participation is limited to the management, operation or conduct of no more than one raffle per year; or  
88 (iii) the spouse of any such bona fide member of a qualified organization provided at least one bona  
89 fide member is present.

90 6. No person shall receive any remuneration for participating in the management, operation or  
91 conduct of any charitable game, except that:

92 a. Persons employed by organizations composed of or for deaf or blind persons may receive  
93 remuneration not to exceed thirty dollars per event for providing clerical assistance in the conduct of  
94 charitable games only for such organizations;

95 b. Persons under the age of nineteen who sell raffle tickets for a qualified organization to raise funds  
96 for youth activities in which they participate may receive nonmonetary incentive awards or prizes from  
97 the organization; and

98 c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which  
99 such bingo games are played for providing uniformed security for such bingo games even if such officer  
100 is a member of the sponsoring organization, provided the remuneration paid to such member is in  
101 accordance with off-duty law-enforcement personnel work policies approved by the local  
102 law-enforcement official and further provided that such member is not otherwise engaged in the  
103 management, operation or conduct of the bingo games of that organization.

104 7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the  
105 conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for  
106 consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, markers,  
107 or other game pieces; or (iii) require as a condition of the lease or by contract that a particular  
108 manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization. If  
109 equipment or services are included by a landlord in any lease or contract, the lease or contract shall  
110 itemize the amount attributable to the rent of the premises, equipment, and each service to be provided  
111 by the landlord.

112 The provisions of this subdivision shall not apply to any qualified organization conducting bingo  
113 games on its own behalf at premises owned by it.

114 8. No qualified organization shall enter into any contract with or otherwise employ or compensate  
115 any member of the organization on account of the sale of bingo supplies or equipment.

116 9. No organization shall award any bingo prize money or any merchandise valued in excess of the  
117 following amounts:

118 a. No bingo door prize shall exceed \$25;

119 b. No regular bingo or special bingo game prize shall exceed \$100;

120 c. No instant bingo prize for a single card shall exceed \$500; and

121 d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of

bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

The provisions of this subdivision shall not apply to any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

10. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) 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) (3) tax-exempt organization or (ii) pull-tab devices when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

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 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.

12. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. 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 Commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Commission regulation.

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.

14. A qualified organization shall not purchase any charitable gaming supplies for use in this Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 18.2-340.34.