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HOUSE BILL NO. 386

Offered January 15, 1998

A BILL to amend and reenact §§ 18.2-340.19, 18.2-340.32, and 18.2-340.33 of the Code of Virginia, relating to charitable gaming.

Patron—Hamilton

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.19, 18.2-340.32, 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. *Such regulations may also provide for a predetermined percentage of an organization's gross receipts to be used for reasonable and proper operating costs.*

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 members who participate in the management, operation or conduct of charitable gaming 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. 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 and (ii) permit members who participate in the management, operation or conduct of bingo to play bingo.

7. Prescribe the conditions under which a qualified organization located in the Northern Virginia Planning District may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth pursuant to subsection C 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 eleven 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 eighteen years may play bingo, provided such person (i) has the consent of his parent or legal guardian or (ii) is accompanied by his parent or legal guardian.

§ 18.2-340.32. Authority of local governments; proceeds exempt from local taxation.

A. The governing body of any county, city or town may adopt an ordinance consistent with this article and the regulations of the Commission which (i) prohibits the playing of instant bingo and (ii) establishes reasonable hours during which bingo games may be played within such jurisdiction. If the governing body of any town adopts an ordinance pursuant to the provisions of this section, such town shall not be subject to any ordinance adopted by the county within which such town lies.

B. No governing body of any county, city or town may impose a gross receipts, entertainment, admission or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

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HB386

60 The provisions of this subsection shall not apply to any local governing body located within the
61 Hampton Roads Planning District, and any such tax imposed shall not be considered part of the gross
62 receipts of a qualified organization for the purposes of subdivision 1 of § 18.2-340.19 and subdivision 1
63 of § 18.2-340.33.

64 § 18.2-340.33. Prohibited practices.

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

67 1. No part of the gross receipts derived by a qualified organization may be used for any purpose
68 other than (i) reasonable and proper operating costs, (ii) publicizing the time and date of charitable
69 gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which
70 the organization is specifically chartered or organized, and (v) expenses relating to the acquisition,
71 construction, maintenance, or repair of any interest in the real property involved in the operation of the
72 organization and used for lawful religious, charitable, community or educational purposes. For the
73 purposes of ~~clause~~ clauses (i) and (v), such expenses may include the expenses of a corporation formed
74 for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such
75 holding entity is qualified as a tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal
76 Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

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

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

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

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

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

96 5. No person shall participate in the management, operation or conduct of any charitable game unless
97 such person is and, for a period of at least thirty days immediately preceding such participation, has
98 been a bona fide member of the organization.

99 The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by
100 qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor
101 of a qualified organization, provided such employees' participation is limited to the management,
102 operation or conduct of no more than one raffle per year; or (iii) the spouse or family member of any
103 such bona fide member of a qualified organization provided at least one bona fide member is present.

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

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

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

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

118 d. A member of a qualified organization lawfully participating in the management, operation or
119 conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for
120 on-premises consumption during the bingo game provided the food and beverages are provided in
121 accordance with Commission regulations.

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

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

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

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

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

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

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

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, up to \$1,000, 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 tabs or seal cards 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.