

091759612

HOUSE BILL NO. 2025

Offered January 14, 2009

Prefiled January 13, 2009

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 charitable gaming; use of proceeds; audit fee.

Patron—Marshall, D.W.

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 Board.

A. The Board shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts, excluding winner-take-all games, 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 *or personal* 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 Board finds appropriate to and consistent with the purpose of charitable gaming.

2. 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 Board to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the Board or Department 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 (§ 2.2-3700 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 may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B 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 13 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 18 years may play bingo, provided such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. Board-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

§ 18.2-340.31. Audit of reports; exemption; audit and administration fee.

A. All reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Department in accordance with Board regulations. The Department may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities under this article.

B. The Department shall prescribe a reasonable audit and administration fee to be paid by any

INTRODUCED

HB2025

59 organization conducting charitable gaming under a permit issued by the Department unless the
60 organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and
61 one-quarter percent of the ~~gross~~ *net* receipts which an organization reports pursuant to § 18.2-340.30.
62 The audit and administration fee shall accompany each report for each calendar quarter.

63 C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees
64 received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the
65 Department for the purposes of auditing and regulating charitable gaming.

66 § 18.2-340.33. Prohibited practices.

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

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

79 2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or
80 otherwise employ for compensation any person for the purpose of organizing, managing, or conducting
81 any charitable games. However, organizations composed of or for deaf or blind persons may use a part
82 of their gross receipts for costs associated with providing clerical assistance in the management and
83 operation but not the conduct of charitable gaming.

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

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

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

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

99 5. No person shall participate in the management or operation of any charitable game unless such
100 person is and, for a period of at least 30 days immediately preceding such participation, has been a bona
101 fide member of the organization. For any organization that is not composed of members, a person who
102 is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is
103 directly supervised by a bona fide official member of the organization.

104 The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by
105 qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor
106 of a qualified organization, provided such employees' participation is limited to the management,
107 operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such
108 bona fide member of a qualified organization provided at least one bona fide member is present; or (iv)
109 persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance
110 with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b)
111 such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c)
112 such sales are conducted in the private social quarters of the organization.

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

115 a. Persons employed by organizations composed of or for deaf or blind persons may receive
116 remuneration not to exceed \$30 per event for providing clerical assistance in the management and
117 operation but not the conduct of charitable games only for such organizations;

118 b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for
119 youth activities in which they participate may receive nonmonetary incentive awards or prizes from the
120 organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

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

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session.

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, 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.

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 \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

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

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$599; 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 session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games.

10. The provisions of subdivision 9 shall not apply to:

a. Any bingo game, commonly referred to as "winner-take-all" games, 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 (i) there are no more than two such games per session of play, (ii) the prize money from such games does not exceed the lesser of the gross receipts directly attributable to the sale of bingo cards or sheets for such games or \$1,000, (iii) the bingo cards or sheets used for such games are sold separately from the bingo cards or sheets used for any other bingo games, and (iv) the organization separately accounts for the proceeds from such sales; or

b. Any bingo game, commonly referred to as "Lucky Seven" games, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of seven predetermined numbers selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the seven predetermined numbers are covered when a certain number of numbers is called, provided (i) there is no more than one such game per session per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with the Department's rules of play.

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

The provisions of this subdivision shall not apply to a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) 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) tax-exempt organization.

12. No qualified organization composed of or for deaf or blind persons which employs a person not

182 a member to provide clerical assistance in the management and operation but not the conduct of any
183 charitable games shall conduct such games unless it has in force fidelity insurance, as defined in
184 § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

185 13. No person shall participate in the management or operation of any charitable game if he has ever
186 been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or
187 financial crimes within the preceding five years. No person shall participate in the conduct of any
188 charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the
189 preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial
190 crimes. In addition, no person shall participate in the management, operation or conduct of any
191 charitable game if that person, within the preceding five years, has participated in the management,
192 operation, or conduct of any charitable game which was found by the Department or a court of
193 competent jurisdiction to have been operated in violation of state law, local ordinance or Board
194 regulation.

195 14. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not
196 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were
197 conducting such games. These restrictions and prohibitions shall include, but not be limited to, the
198 frequency with which bingo games may be held, the value of merchandise or money awarded as prizes,
199 or any other practice prohibited under this section.

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

203 16. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross
204 receipts shall be used for an organization's social or recreational activities.