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HOUSE BILL NO. 616

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws on January 30, 2014)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact §§ 18.2-340.18, 18.2-340.24, and 18.2-340.30 of the Code of Virginia, relating to charitable gaming; interim certification of tax-exempt status.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.18, 18.2-340.24, and 18.2-340.30 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.18. Powers and duties of the Department.

The Department shall have all powers and duties necessary to carry out the provisions of this article and to exercise the control of charitable gaming as set forth in § 18.2-340.15. Such powers and duties shall include but not be limited to the following:

1. The Department is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this article and including all persons that conduct or provide goods, services or premises used in the conduct of charitable gaming. It may employ such persons as are necessary to ensure that charitable gaming is conducted in conformity with the provisions of this article and the regulations of the Board. The Department shall designate such agents and employees as it deems necessary and appropriate who shall be sworn to enforce the provisions of this article and the criminal laws of the Commonwealth and who shall be law-enforcement officers as defined in § 9.1-101.

2. The Department, its agents and employees and any law-enforcement officers charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming. These individuals may enter such places or premises for the purpose of carrying out any duty imposed by this article, securing records required to be maintained by an organization, investigating complaints, or conducting audits.

3. The Department may compel the production of any books, documents, records, or memoranda of any organizations or supplier involved in the conduct of charitable gaming for the purpose of satisfying itself that this article and its regulations are strictly complied with. In addition, the Department may require the production of an annual balance sheet and operating statement of any person granted a permit pursuant to the provisions of this article and may require the production of any contract to which such person is or may be a party.

4. The Department may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Department, it is necessary to do so for the effectual discharge of its duties.

5. The Department may compel any person conducting charitable gaming to file with the Department such documents, information or data as shall appear to the Department to be necessary for the performance of its duties.

6. The Department may enter into arrangements with any governmental agency of this or any other state or any locality in the Commonwealth or any agency of the federal government for the purposes of exchanging information or performing any other act to better ensure the proper conduct of charitable gaming.

7. The Department may issue interim certification of tax-exempt status and collect a fee therefor in accordance with subsection B of § 18.2-340.24 a charitable gaming permit while the permittee's tax-exempt status is pending approval by the Internal Revenue Service.

8. The Department shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Department and any recommendations for legislation applicable to charitable gaming in the Commonwealth.

9. The Department, its agents and employees may conduct such audits, in addition to those required by § 18.2-340.31, as they deem necessary and desirable.

10. The Department may limit the number of organizations for which a person may manage, operate or conduct charitable games.

11. The Department may report any alleged criminal violation of this article to the appropriate attorney for the Commonwealth for appropriate action.

§ 18.2-340.24. Eligibility for permit; exceptions; where valid.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the Commonwealth for a period of at least three years immediately prior to applying for a permit.

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60 The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or
 61 international fraternal order or of a national or international civic organization which is exempt under
 62 § 501(c) of the United States Internal Revenue Code and which has a lodge or chapter holding a
 63 charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth;
 64 (ii) to booster clubs which have been operating for less than three years and which have been
 65 established solely to raise funds for school-sponsored activities in public schools or private schools
 66 accredited pursuant to § 22.1-19; (iii) to recently established volunteer fire and rescue companies or
 67 departments, after county, city or town approval; or (iv) to an organization which relocates its meeting
 68 place on a permanent basis from one jurisdiction to another, complies with the requirements of
 69 subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

70 2. Be operating currently and have always been operated as a nonprofit organization.

71 3. Have at least ~~50%~~ *50 percent* of its membership consist of residents of the Commonwealth;
 72 however, if an organization (i) does not consist of bona fide members and (ii) is exempt under
 73 § 501(c)(3) of the United States Internal Revenue Code, the Board shall exempt such organizations from
 74 the requirements of this subdivision.

75 B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to
 76 exceed \$40,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501(c) of
 77 the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal
 78 Revenue Service, the same documentation may be filed with the Department ~~for an interim certification~~
 79 ~~of tax-exempt status in conjunction with an application for a charitable gaming permit.~~ If such
 80 documentation is filed, the Department may, after reviewing such documentation it deems necessary,
 81 issue its ~~determination of tax-exempt status within 60 days of receipt of such documentation a~~
 82 ~~charitable gaming permit.~~ The Department shall charge a fee of \$500 for such determination. This
 83 ~~interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its~~
 84 ~~determination of tax-exempt status, or for 18 months, whichever is earlier.~~

85 C. A permit shall be valid only for the locations, dates, and times designated in the permit.

86 **§ 18.2-340.30. Reports of gross receipts and disbursements required; form of reports; failure to**
 87 **file.**

88 A. Each qualified organization shall keep a complete record of all inventory of charitable gaming
 89 supplies purchased, all receipts from its charitable gaming operation, and all disbursements related to
 90 such operation. Except as provided in § 18.2-340.23, each qualified organization shall file at least
 91 annually, on a form prescribed by the Department, a report of all such receipts and disbursements, the
 92 amount of money on hand attributable to charitable gaming as of the end of the period covered by the
 93 report and any other information related to its charitable gaming operation that the Department may
 94 require. In addition, the Board, by regulation, may require any qualified organization whose net receipts
 95 exceed a specified amount during any three-month period to file a report of its receipts and
 96 disbursements for such period. All reports filed pursuant to this section shall be a matter of public
 97 record.

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

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

107 D. Each qualified organization shall maintain for three years a complete written record of (i) all
 108 charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved
 109 by the Department; (ii) the name and address of each individual to whom ~~any prize or jackpot in excess~~
 110 ~~of \$599 from~~ *is awarded any charitable gaming is awarded prize or jackpot that meets or exceeds the*
 111 *requirements of Internal Revenue Service Publication 3079*, as well as the amount of the award; and (iii)
 112 an itemized record of all receipts and disbursements, including operating costs and use of proceeds
 113 incurred in operating bingo games.

114 E. The failure to file reports within 30 days of the time such reports are due shall cause the
 115 automatic revocation of the permit, and no organization shall conduct any bingo game or raffle
 116 thereafter until the report is properly filed and a new permit is obtained. However, the Department may
 117 grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an
 118 organization, provided the organization requests an extension within 15 days of the time such reports are
 119 due and all projected fees are paid. For the term of any such extension, the organization's permit shall
 120 not be automatically revoked, such organization may continue to conduct charitable gaming, and no new
 121 permit shall be required.