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SENATE BILL NO. 1127

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 27, 2021)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend and reenact §§ 18.2-334.2, 18.2-340.16, 18.2-340.19, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, and 18.2-340.31 of the Code of Virginia, relating to charitable gaming; conduct of instant bingo, network bingo, pull tabs, and seal cards.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-334.2, 18.2-340.16, 18.2-340.19, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, and 18.2-340.31 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-334.2. Exception to article; bingo games, raffles, duck races, and Texas Hold'em poker tournaments conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, network bingo, raffle, duck race, or Texas Hold'em poker tournament conducted solely by organizations as defined in § 18.2-340.16 which ~~that~~ have received a permit as set forth in § 18.2-340.25; ~~or which are exempt from the permit requirement under § 18.2-340.23.~~

§ 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.

"Board" means the Charitable Gaming Board created pursuant to § 2.2-2455.

"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.

"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, but not be limited to, (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.

"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, including Department-approved electronic versions thereof, 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 which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or 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.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation,

60 employee, or immediate family member thereof, which owns and leases, or leases any premises devoted
61 in whole or in part to the conduct of bingo games, and any person residing in the same household as a
62 landlord.

63 "Management" means the provision of oversight of a gaming operation, which may include, but is
64 not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling,
65 submitting and maintaining required records and financial reports, and ensuring that all aspects of the
66 operation are in compliance with all applicable statutes and regulations.

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

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

69 "Operation" means the activities associated with production of a charitable gaming activity, which
70 may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming;
71 (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the
72 organization's management.

73 "Organization" means any one of the following:

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

78 2. ~~An organization operated exclusively for religious, charitable, community or educational purposes;~~

79 ~~3. An athletic association or booster club or a band booster club established solely to raise funds for~~
80 ~~school-sponsored athletic or band activities for a public school or private school accredited pursuant to~~
81 ~~§ 22.1-19 or to provide scholarships to students attending such school;~~

82 4. 3. An association of war veterans or auxiliary units thereof organized in the United States;

83 ~~5. 4. A fraternal association or corporation operating under the lodge system;~~

84 ~~6. 5. A local chamber of commerce; or~~

85 ~~7. 6. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the~~
86 ~~Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or~~
87 ~~seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts from~~
88 ~~the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or~~
89 ~~community purposes.~~

90 "Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised
91 of participating charitable organizations for the conduct of network bingo games in which the purchase
92 of a network bingo card by a player automatically includes the player in a pool with all other players in
93 the network, and where the prize to the winning player is awarded based on a percentage of the total
94 amount of network bingo cards sold in a particular network.

95 "Qualified organization" means any organization to which a valid permit has been issued by the
96 Department to conduct charitable gaming ~~or any organization that is exempt pursuant to § 18.2-340.23.~~

97 "Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or
98 prearranged number of one or more persons purchasing chances or (ii) a random contest in which the
99 winning name or preassigned number of one or more persons purchasing chances is determined by a
100 race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

101 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified
102 organization in the conduct of charitable gaming and not otherwise allowed under this article or under
103 Board regulations on real estate and personal property tax payments, travel expenses, payments of
104 utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and
105 office equipment and costs of acquisition, maintenance, repair or construction of an organization's real
106 property. For the purpose of this definition, salaries and wages of employees whose primary
107 responsibility is to provide services for the principal benefit of an organization's members shall not
108 qualify as a business expense. However, payments made pursuant to § 51.1-1204 to the Volunteer
109 Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper
110 business expense.

111 "Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming
112 supplies to any qualified organization.

113 "Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards
114 facedown that may be used individually, (ii) five cards shown faceup are shared among all players in
115 the game, (iii) players combine any number of their individual cards with the shared cards to make the
116 highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the
117 rules of the game are governed by the official rules of the Poker Tournament Directors Association.

118 "Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i)
119 who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in
120 the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the
121 competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one

or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations that:

1. Require, as a condition of receiving a permit, that the applicant use a ~~predetermined percentage at least 10 percent~~ of its gross receipts, *including proceeds from instant bingo, pull tabs, or seal cards*, 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. ~~In the case of the conduct of Texas Hold'em poker tournaments, the regulations shall provide that the predetermined percentage of gross receipts may be used for expenses related to compensating operators contracted by the qualified organization to administer such events. 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. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play.

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; (ii) permit members who participate in the management, operation or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

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 *that* 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.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.

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 *that* 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.

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

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period shall be required to (i) notify the Department of its intention to conduct charitable gaming or (ii) comply with Board regulations. If any organization's actual gross receipts for the 12-month period exceed \$40,000, the Department may require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision 6 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Nothing in this subsection shall be construed as exempting *any organizations described in subdivision 6 of the definition of "organization" in § 18.2-340.16*, volunteer fire departments ~~and~~, or volunteer emergency medical services agencies from any other provisions of this article or other Board regulations.

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

§ 18.2-340.25. Permit required; application fee; form of application.

A. ~~Except as provided for in § 18.2-340.23, prior~~ Prior to the commencement of any charitable game, an organization shall obtain a permit from the Department.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Board Regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards; proceeds not counted as gross receipts.

A. Instant bingo, pull tabs, or seal cards may be sold only (i) by organizations that are exempt from income tax pursuant to subdivision (c)(8), (c)(10), (c)(18), or (c)(19) of § 501 of the Internal Revenue Code, (ii) upon the premises that are owned or exclusively and entirely leased by the organization, and (iii) at such times as the portion of that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests via controlled access. No organization may (a) engage in public solicitation or advertise instant bingo, pull tabs, or seal cards or (b) sell instant bingo,

pull tabs, or seal cards in an establishment that has been granted a license pursuant to Chapter 2 of Title 4.1 unless such license is held by the organization. Nothing in this article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last sale games, conducted in accordance with this section.

B. The proceeds from instant bingo, pull tabs or seal cards shall not be included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

C. No more than 18 devices that facilitate the play of electronic versions of instant bingo, pull tabs, or seal cards, commonly referred to as electronic pull tabs, may be used upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members and their guests. The Board may approve exceptions to this requirement where there is a special or documented need.

§ 18.2-340.27. Conduct of bingo games.

A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations on any calendar day.

D. Qualified organizations may hold an unlimited number of bingo sessions on any calendar day.

E. Any organization may conduct bingo games at any location within the Commonwealth only in the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town. The organization shall have only one principal office.

§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may also play instant bingo, network bingo, pull tabs, or seal cards as a part of such bingo game and, if a permit is required pursuant to § 18.2-340.25,; however, such games shall be played only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsection E of § 18.2-340.27, which shall not include any establishment that has been granted a license pursuant to Chapter 2 of Title 4.1 unless such license is held by the organization. No organization may play instant bingo, network bingo, pull tabs, or seal cards on more than three days in any seven day period.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any instant bingo, network bingo, pull tabs, or seal cards.

§ 18.2-340.28:1. Conduct of network bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may also sell network bingo cards as a part of a regular bingo game and, if a permit is required pursuant to § 18.2-340.25,; however, network bingo shall be sold only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsection E of § 18.2-340.27, which shall not include any establishment that has been granted a license pursuant to Chapter 2 of Title 4.1 unless such license is held by the organization.

B. Any organization selling network bingo cards shall maintain a record of the date and quantity of network bingo cards purchased from a licensed network bingo provider. The organization shall also maintain a written invoice or receipt from a licensed supplier verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization or by electronic fund transfer. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where network bingo cards are sold.

C. No qualified organization shall sell any network bingo cards to any individual younger than 18

306 years of age. No individual younger than 18 years of age shall play or redeem any network bingo cards.
307 D. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment
308 of any charges or assessments for players to participate in any network bingo game. However, no such
309 organization shall accept postdated checks in payment of any charges or assessments for players to
310 participate in network bingo games.

311 E. No qualified organization or any person on the premises shall extend lines of credit or accept any
312 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
313 for players to participate in network bingo games.

314 F. No qualified organization shall conduct network bingo more frequently than one day in any
315 calendar week, which shall not be the same day of each week.

316 G. No network bingo games shall be permitted in the social quarters of an organization that are open
317 only to the organization's members and their guests.

318 H. No qualified organization shall sell network bingo cards on the Internet or other online service or
319 allow the play of network bingo on the Internet or other online service. However, the location where
320 network bingo games are conducted shall be equipped with a video monitor, television, or video screen,
321 or any other similar means of visually displaying a broadcast or signal, that relays live, real-time video
322 of the numbers as they are called by a live caller. The Internet or other online service may be used to
323 relay information about winning players.

324 I. Qualified organizations may award network bingo prizes on a graduated scale; however, no single
325 network bingo prize shall exceed \$25,000.

326 J. Nothing in this section shall be construed to prohibit an organization from participating in more
327 than one network bingo network.

328 **§ 18.2-340.31. Audit of reports; exemption; audit and administration fee; additional gross**
329 **receipts assessment.**

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

334 B. The Department shall prescribe a reasonable audit and administration fee to be paid by any
335 organization conducting charitable gaming under a permit issued by the Department unless the
336 organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and
337 one-quarter percent of the gross receipts which an organization reports pursuant to § 18.2-340.30. The
338 audit and administration fee shall accompany each report for each calendar quarter.

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

342 D. In addition to the fee imposed under subsection B, an additional fee of ~~one-quarter~~ *three-quarters*
343 of one percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 shall be paid
344 by the organization to the Treasurer of Virginia. All such amounts shall be collected and deposited in
345 the same manner as prescribed in subsections B and C and shall be used for the same purposes.