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SENATE BILL NO. 1278

Senate Amendments in [] - February 4, 2021

A *BILL to amend and reenact §§ 18.2-334.2, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.22, 18.2-340.28:2, and 18.2-340.34:2 of the Code of Virginia, relating to charitable gaming; regulations; Texas Hold'em poker games.*

Patron Prior to Engrossment—Senator Bell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-334.2, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.22, 18.2-340.28:2, and 18.2-340.34:2 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-334.2. Same; bingo games, raffles, duck races, Texas Hold'em poker games, 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, Texas Hold'em poker game, or Texas Hold'em poker tournament conducted solely by organizations as defined in § 18.2-340.16 which 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 games, 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.

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59 "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. An association of war veterans or auxiliary units thereof organized in the United States;

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

84 6. A local chamber of commerce; or

85 7. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross
86 receipts of \$40,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are
87 used exclusively for charitable, educational, religious or community purposes.

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

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

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

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

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

111 "Texas Hold'em poker game" means a variation of poker [; *including games played on*
112 *Department-approved electronic poker tables,*] in which (i) players receive two cards facedown that
113 may be used individually, (ii) five cards shown faceup are shared among all players in the game, (iii)
114 players combine any number of their individual cards with the shared cards to make the highest
115 five-card hand to win the value wagered during the game, ~~and~~ (iv) *players are allowed to purchase*
116 *additional poker chips during the course of the game;* and (v) the ranking of hands and the rules of the
117 game are governed by the official rules of the Poker Tournament Directors Association.

118 "Texas Hold'em poker operator" means a person or his agent or employee, or an entity, (i) licensed
119 by the Department to operate Texas Hold'em poker games and tournaments and (ii) contracted by a
120 qualified organization to administer such games and tournaments on the organization's behalf.

"Texas Hold'em poker tournament" or "tournament" means an organized competition [; *including games played on Department-approved electronic poker tables,*] of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the 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.

§ 18.2-340.18. 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 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.

12. *The Department shall establish technical requirements, including security, performance, and reliability standards, for any hardware or software used in the conduct of Texas Hold'em poker games or Texas Hold'em poker tournaments. Any hardware or software shall meet the technical requirements as established by the Department, be verified by an independent testing laboratory recognized by the Department, and be approved by the Department prior to being used for a Texas Hold'em poker game or Texas Hold'em poker tournament.*

§ 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 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. ~~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 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 *Texas Hold'em poker* operators ~~of~~, or conduct *Texas Hold'em poker games* and *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 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.

§ 18.2-340.22. Only raffles, bingo, network bingo, instant bingo games, Texas Hold'em poker games, and Texas Hold'em poker tournaments permitted; prizes not gaming contracts.

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, instant bingo

games, *Texas Hold'em poker games*, and Texas Hold'em poker tournaments. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited. Nothing herein shall be construed to authorize the Board to approve the conduct of any other form of poker in the Commonwealth.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the Virginia Lottery's Pick-3 number or any number or other designation selected by the Virginia Lottery in connection with any lottery, as the basis for determining the winner of a raffle.

§ 18.2-340.28:2. Conduct of Texas Hold'em poker games and Texas Hold'em poker tournaments by qualified organizations; limitation of operator fee; conditions.

A. Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct *Texas Hold'em poker games* and Texas Hold'em poker tournaments [*but at no time shall conduct more than three Texas Hold'em poker games or Texas Hold'em poker tournaments at a time*]. The Board shall promulgate regulations establishing circumstances under which organizations qualified to conduct bingo games prior to July 1, 2019, may conduct *Texas Hold'em poker games* and Texas Hold'em poker tournaments.

B. A qualified organization may contract with an operator to administer *Texas Hold'em poker games* and Texas Hold'em poker tournaments. Limitations on operator fees shall be established by Board regulations.

C. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in *Texas Hold'em poker games* and Texas Hold'em poker tournaments. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in *Texas Hold'em poker games* and Texas Hold'em poker tournaments.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in *Texas Hold'em poker games* and Texas Hold'em poker tournaments.

E. No qualified organization shall allow any individual younger than 18 years of age to participate in *Texas Hold'em poker games* or Texas Hold'em poker tournaments.

§ 18.2-340.34:2. Licensing of network bingo providers and Texas Hold'em poker operators; qualification; suspension, revocation, or refusal to renew license; maintenance, production, and release of records.

A. No person shall sell or offer to sell or otherwise provide access to a network bingo network to any qualified organization unless and until such person has made application for and has been issued a license by the Department. An application for license shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$500. Each license shall remain valid for a period of two years from the date of issuance. Application for renewal of a license shall be accompanied by a fee in the amount of \$500 and shall be made on forms prescribed by the Department.

B. *No person shall administer or offer to administer or otherwise contract with a qualified organization to administer Texas Hold'em poker games or Texas Hold'em poker tournaments on behalf of any qualified organization unless and until such person has made application for and has been issued a license by the Department. An application for license shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$1,000. Each license shall remain valid for a period of one year from the date of issuance. Application for renewal of a license shall be accompanied by a fee in the amount of \$1,000 and shall be made on forms prescribed by the Department.*

C. The Board shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the licensure of network bingo providers *and Texas Hold'em poker operators*. The Department may refuse to issue a license to any network bingo provider or *Texas Hold'em poker operator* that has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; (iv) failed to file or been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or (v) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

~~C.~~ D. The Department may suspend, revoke, or refuse to renew the license of any network bingo provider or *Texas Hold'em poker operator* for any conduct described in subsection B C or for any

305 violation of this article or regulation of the Board. Before taking any such action, the Department shall
306 give the network bingo provider a written statement of the grounds upon which it proposes to take such
307 action and an opportunity to be heard. Every hearing in a contested case shall be conducted in
308 accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

309 ~~D.~~ E. The Department by regulation shall require network bingo providers to have onsite independent
310 supervision of network bingo games as the numbers are called.

311 ~~E.~~ F. Each network bingo provider shall document each sale of network bingo supplies and other
312 items incidental to the conduct of network bingo to a qualified organization on an invoice that clearly
313 shows (i) the name and address of the qualified organization to which such supplies or items were sold;
314 (ii) the date of the sale; (iii) the name or form and serial number of each network bingo card, the
315 quantity of cards sold, and the price per card paid by the qualified organization; and (iv) any other
316 information required by the Department. A legible copy of the invoice shall accompany the network
317 bingo supplies when delivered to the qualified organization.

318 *G. Each Texas Hold'em poker operator shall document certain financial information associated with*
319 *administering Texas Hold'em poker games and Texas Hold'em poker tournaments to a qualified*
320 *organization on an invoice that clearly shows (i) the name and address of the qualified organization*
321 *that contracted with the operator to administer Texas Hold'em poker games and Texas Hold'em poker*
322 *tournaments; (ii) the date and location of the Texas Hold'em poker games and Texas Hold'em poker*
323 *tournaments; (iii) all information needed to calculate the fee owed to the operator, including gross*
324 *receipts, net receipts, and prize disbursements; and (iv) any other information required by the*
325 *Department. A legible copy of the invoice shall be provided to the qualified organization in a timely*
326 *manner.*

327 ~~F.~~ H. Each network bingo provider *and Texas Hold'em poker operator* shall maintain a legible copy
328 of each invoice required by subsection ~~E~~ F for a period of three years from the date of sale. Each
329 network bingo provider *and Texas Hold'em poker operator* shall make such documents immediately
330 available for inspection and copying to any agent or employee of the Department upon request made
331 during normal business hours. This subsection shall not limit the right of the Department to require the
332 production of any other documents in the possession of the network bingo provider *or Texas Hold'em*
333 *poker operator* that relate to its transactions with qualified organizations. All documents and other
334 information of a proprietary nature furnished to the Department in accordance with this subsection shall
335 be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

336 **[2. That the provisions of this act shall not become effective unless reenacted by the 2022 Session**
337 **of the General Assembly.]**