

VIRGINIA ACTS OF ASSEMBLY -- 2023 RECONVENED SESSION

CHAPTER 787

An Act to amend and reenact §§ 18.2-340.16, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.25:2, relating to charitable gaming; temporary permits; limitations; definitions.

[H 1987]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.23, 18.2-340.25, 18.2-340.26:1, and 18.2-340.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.25:2 as follows:

§ 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.

"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. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"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 (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.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"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 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 that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by 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, employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games or other charitable gaming pursuant to this article, and any person residing in the same household as a landlord.

"Management" means the provision of oversight of a gaming operation, which may include the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

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

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

"Operation" means the activities associated with production of a charitable gaming or electronic gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming and electronic gaming designated by the organization's management.

"Organization" means any one of the following:

1. A 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 a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for educational purposes, and awards scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

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

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

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

6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;

7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;

9. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;

14. *An organization (i) established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public*

Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth; (ii) that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code; and (iii) that is operated, and has always been operated, for community awareness and action through educational, economic, and cultural service activities;

15. *An organization established on or before December 31, 1977, that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;*

16. A local chamber of commerce; or

~~15.~~ 17. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

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

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

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

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

"Social organization" means any qualified organization that provides certification to the Department that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. *An organization established on or before December 31, 1963, as a result of its members being prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth, that is qualified under § 501(c)(7) of the Internal Revenue Code;*

3. *An organization established on or before December 31, 1977, that is qualified under § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose missions include promoting early detection of and public education about and supporting research and treatment options for heart disease and various cancers;*

4. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

~~3.~~ 5. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue Code; or

~~4.~~ 6. A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Department, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service

regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

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

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

"Texas Hold'em poker tournament" or "tournament" means an organized competition 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.

§ 18.2-340.23. 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 from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Department regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision 15 17 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. Any such organization, department, agency, or unit that conducts electronic gaming shall be subject to such application fees and audit fees for its electronic gaming activities; however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 15 17 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Department regulations.

C. 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, Department regulations.

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

A. Except as provided for in § 18.2-340.23, 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; *except that an organization may also apply for and receive a temporary permit pursuant to § 18.2-340.25:2.*

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 Department 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.

§ 18.2-340.25:2. Temporary permits authorized; limitations.

A. Any qualified organization described in subdivision 4 or 5 of the definition of "organization" in § 18.2-340.16 may obtain a temporary permit from the Department allowing such organization to sell instant bingo, pull tabs, or seal cards upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the permit.

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 temporary permit may be issued. All temporary 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 one year. The application shall be a matter of public record.

All temporary permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The temporary 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 the employee's, permit holder'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, permit holder, 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 temporary permit allowing it to conduct charitable gaming; however, an organization may also receive a permit in accordance with the provisions of § 18.2-340.25.

D. Application for a temporary 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 temporary permits shall be made in accordance with Department regulations. If a complete renewal application is received 45 days or more prior to the expiration of the temporary permit, the temporary permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the temporary 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 temporary permit, and no organization shall conduct any charitable gaming in accordance with the provisions of subsection A until such requirements are met and a temporary permit is obtained.

§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards.

A. ~~Instant~~ Except as provided in subsection D, instant bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined in § 18.2-340.16, (ii) upon premises that are owned or exclusively and entirely leased by the qualified organization or leased by the qualified organization pursuant to subsection C, and (iii) at such times 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. Except as provided in ~~subsection~~ subsections C and D, no organization may sell instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the organization's principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) 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 or, if such games are electronic games, in accordance with § 18.2-340.26:3.

B. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

C. Notwithstanding the provisions of subsection A, a qualified organization may lease the premises of any social organization authorized pursuant to § 18.2-340.26:3 for the purpose of selling instant bingo, pull tabs, or seal cards.

D. Notwithstanding the provisions of subsection A, instant bingo, pull tabs, or seal cards may be

sold by a qualified organization that has received a temporary permit from the Department pursuant to § 18.2-340.25:2 upon premises located anywhere in the Commonwealth during a convention, conference, or related event lasting no more than seven consecutive days held by such organization's affiliated state, regional, or national organization up to once per quarter as designated in the temporary permit.

§ 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; 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 subsections E and F of § 18.2-340.27, *except that a qualified organization that is issued a temporary permit pursuant to § 18.2-340.25:2 shall be authorized to play instant bingo, pull tabs, or seal cards in accordance with subsection D of § 18.2-340.26:1.* It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

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.

D. 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 instant bingo, network bingo, pull tabs, or seal cards.