

23107198D

HOUSE BILL NO. 1987**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator Rouse
on February 21, 2023)

(Patron Prior to Substitute—Delegate Krizek)

A BILL 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.

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.

60 "Jackpot" means a bingo game that the organization has designated on its game program as a jackpot
61 game in which the prize amount is greater than \$100.

62 "Landlord" means any person or his agent, firm, association, organization, partnership, or corporation,
63 employee, or immediate family member thereof, which owns and leases, or leases any premises devoted
64 in whole or in part to the conduct of bingo games or other charitable gaming pursuant to this article,
65 and any person residing in the same household as a landlord.

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

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

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

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

76 "Organization" means any one of the following:

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

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

85 3. An athletic association or booster club or a band booster club established solely to raise funds for
86 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
87 § 22.1-19 or to provide scholarships to students attending such school;

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

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

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

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

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

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

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

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

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

116 13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
117 Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the
118 environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of
119 science and technology to advance the conservation of the environment, caves, or other natural
120 resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources
121 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

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;

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

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

183 its members for social and recreational activities, (ii) is accessible exclusively to members of the social
184 organization and their guests, and (iii) is not advertised or open to the general public. It shall not
185 disqualify the area from being considered social quarters if guests occasionally accompany members into
186 the area, so long as such guests do not spend their own funds to participate in charitable gaming or
187 electronic gaming activities conducted in the area. In determining if an area is social quarters for
188 purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service
189 regarding the allowable participation of guests in an organization's social and recreational activities for
190 purposes of § 501 of the Internal Revenue Code.

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

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

198 "Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i)
199 who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in
200 the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the
201 competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one
202 or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker
203 chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of
204 value according to how long such players remain in the competition.

205 **§ 18.2-340.23. Organizations exempt from certain fees and reports.**

206 A. No organization that reasonably expects, based on prior charitable gaming annual results or any
207 other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from
208 raffles conducted in accordance with the provisions of this article shall be required to (i) notify the
209 Department of its intention to conduct raffles or (ii) comply with Department regulations governing
210 raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000,
211 the Department shall require the organization to file by a specified date the report required by
212 § 18.2-340.30.

213 B. Any (i) organization described in subdivision 15 17 of the definition of "organization" in
214 § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or
215 auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or
216 resolution of the political subdivision where the volunteer fire department or volunteer emergency
217 medical services agency is located as being part of the safety program of such political subdivision shall
218 be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees
219 required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic
220 gaming shall be subject to such application fees and audit fees for its electronic gaming activities;
221 however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the
222 organization or the electronic gaming manufacturer whose electronic gaming devices are present on the
223 premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed
224 as exempting any organizations described in subdivision 15 17 of the definition of "organization" in
225 § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any
226 other provisions of this article or other Department regulations.

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

230 **§ 18.2-340.25. Permit required; application fee; form of application.**

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

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

238 All permits shall be subject to regulation by the Department to ensure the public safety and welfare
239 in the operation of charitable games. The permit shall only be granted after a reasonable investigation
240 has been conducted by the Department. The Department may require any prospective employee, permit
241 holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be
242 forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal
243 Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history
244 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 days held by such organization's affiliated state, regional, or national organization up to four times per year 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

306 4.1 unless such license is held by the organization. Nothing in this article shall be construed to prohibit
307 the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last
308 sale games, conducted in accordance with this section or, if such games are electronic games, in
309 accordance with § 18.2-340.26:3.

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

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

315 *D. Notwithstanding the provisions of subsection A, instant bingo, pull tabs, or seal cards may be*
316 *sold by a qualified organization that has received a temporary permit from the Department pursuant to*
317 *§ 18.2-340.25:2 upon premises located anywhere in the Commonwealth during a convention, conference,*
318 *or related event lasting no more than seven days held by such organization's affiliated state, regional,*
319 *or national organization up to four times per year as designated in the temporary permit.*

320 **§ 18.2-340.28. Conduct of instant bingo, network bingo, pull tabs, and seal cards.**

321 A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may
322 also play instant bingo, network bingo, pull tabs, or seal cards; however, such games shall be played
323 only at such times designated in the permit for regular bingo games and only at locations at which the
324 organization is authorized to conduct regular bingo games pursuant to subsections E and F of
325 § 18.2-340.27, *except that a qualified organization that is issued a temporary permit pursuant to*
326 *§ 18.2-340.25:2 shall be authorized to play instant bingo, pull tabs, or seal cards in accordance with*
327 *subsection D of § 18.2-340.26:1.* It is prohibited to use an electronic device to conduct instant bingo,
328 pull tabs, or seal cards except as permitted under § 18.2-340.26:3.

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

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

339 D. No qualified organization or any person on the premises shall extend lines of credit or accept any
340 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
341 for players to participate in instant bingo, network bingo, pull tabs, or seal cards.