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HOUSE BILL NO. 2419

Offered January 18, 2023

A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia, relating to charitable gaming; definition of "organization."

Patron—Wampler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia are amended and reenacted 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.

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

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

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

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

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

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

75 "Organization" means any one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

121 efforts;

122 14. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue*
123 *Code that manages a museum that is operated, and has always been operated, exclusively for*
124 *educational and community economic development purposes;*

125 15. A local chamber of commerce; or

126 ~~15.~~ 16. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the
127 Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or
128 seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less
129 expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes.
130 Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included
131 when calculating an organization's annual gross receipts for the purposes of this subdivision.

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

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

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

143 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified
144 organization in the conduct of charitable gaming and not otherwise allowed under this article or under
145 Department regulations on real estate and personal property tax payments, travel expenses, payments of
146 utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and
147 office equipment and costs of acquisition, maintenance, repair, or construction of an organization's real
148 property. For the purpose of this definition, salaries and wages of employees whose primary
149 responsibility is to provide services for the principal benefit of an organization's members may qualify
150 as a business expense, if so determined by the Department. However, payments made pursuant to
151 § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be
152 deemed a reasonable and proper business expense.

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

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

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

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

162 4. A post or organization of past or present members of the Armed Forces of the United States, or
163 an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under
164 § 501(c)(19) of the Internal Revenue Code.

165 "Social quarters" means, in addition to any specifications prescribed by the Department, an area at a
166 social organization's primary location that (i) such organization designates to be used predominantly by
167 its members for social and recreational activities, (ii) is accessible exclusively to members of the social
168 organization and their guests, and (iii) is not advertised or open to the general public. It shall not
169 disqualify the area from being considered social quarters if guests occasionally accompany members into
170 the area, so long as such guests do not spend their own funds to participate in charitable gaming or
171 electronic gaming activities conducted in the area. In determining if an area is social quarters for
172 purposes of § 18.2-340.26:3, the Department may rely on publications of the Internal Revenue Service
173 regarding the allowable participation of guests in an organization's social and recreational activities for
174 purposes of § 501 of the Internal Revenue Code.

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

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

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

189 **§ 18.2-340.23. Organizations exempt from certain fees and reports.**

190 A. No organization that reasonably expects, based on prior charitable gaming annual results or any
191 other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from
192 raffles conducted in accordance with the provisions of this article shall be required to (i) notify the
193 Department of its intention to conduct raffles or (ii) comply with Department regulations governing
194 raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000,
195 the Department shall require the organization to file by a specified date the report required by
196 § 18.2-340.30.

197 B. Any (i) organization described in subdivision ~~15~~ 16 of the definition of "organization" in
198 § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or
199 auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or
200 resolution of the political subdivision where the volunteer fire department or volunteer emergency
201 medical services agency is located as being part of the safety program of such political subdivision shall
202 be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees
203 required by § 18.2-340.31. Any such organization, department, agency, or unit that conducts electronic
204 gaming shall be subject to such application fees and audit fees for its electronic gaming activities;
205 however, in accordance with the provisions of § 18.2-340.31, any audit fees may be paid by either the
206 organization or the electronic gaming manufacturer whose electronic gaming devices are present on the
207 premises of the organization, department, agency, or unit. Nothing in this subsection shall be construed
208 as exempting any organizations described in subdivision ~~15~~ 16 of the definition of "organization" in
209 § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any
210 other provisions of this article or other Department regulations.

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