

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia, relating to*
3 *charitable gaming; definition of "organization."*

4 [H 2419]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia are amended and reenacted as**
8 **follows:**9 **§ 18.2-340.16. Definitions.**

10 As used in this article, unless the context requires a different meaning:

11 "Bingo" means a specific game of chance played with (i) individual cards having randomly numbered
12 squares ranging from one to 75, (ii) Department-approved electronic devices that display facsimiles of
13 bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are
14 called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated
15 numbers on such cards conforming to a predetermined pattern of numbers selected at random.16 "Bona fide member" means an individual who participates in activities of a qualified organization
17 other than such organization's charitable gaming activities.18 "Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments,
19 and games of chance explicitly authorized by this article. Unless otherwise specified, "charitable
20 gaming" includes electronic gaming authorized by this article.21 "Charitable gaming permit" or "permit" means a permit issued by the Department to an organization
22 that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a
23 social organization, electronic gaming.24 "Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers,
25 instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips,
26 and any other equipment or product manufactured for or intended to be used in the conduct of charitable
27 games. However, for the purposes of this article, charitable gaming supplies shall not include items
28 incidental to the conduct of charitable gaming such as markers, wands, or tape.

29 "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

30 "Conduct" means the actions associated with the provision of a gaming operation during and
31 immediately before or after the permitted activity, which may include (i) selling bingo cards or packs,
32 electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii)
33 distributing prizes, and (iv) any other services provided by volunteer workers.

34 "Department" means the Department of Agriculture and Consumer Services.

35 "Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming
36 that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the
37 game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.38 "Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming
39 less the total amount in prize money paid out to players.40 "Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct
41 electronic gaming.42 "Fair market rental value" means the rent that a rental property will bring when offered for lease by
43 a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no
44 necessity of leasing.45 "Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and
46 administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such
47 other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.48 "Gross receipts" means the total amount of money generated by an organization from charitable
49 gaming before the deduction of expenses, including prizes.50 "Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random
51 selection of one or more individually prepacked cards with winners being determined by the preprinted
52 or predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the
53 player to determine wins and losses and may include the use of a seal card that conceals one or more
54 numbers or symbols that have been designated in advance as prize winners. Such cards may be
55 dispensed by mechanical equipment.

56 "Jackpot" means a bingo game that the organization has designated on its game program as a jackpot

57 game in which the prize amount is greater than \$100.

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

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

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

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

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

72 "Organization" means any one of the following:

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

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

81 3. An athletic association or booster club or a band booster club established solely to raise funds for
82 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
83 § 22.1-19 or to provide scholarships to students attending such school;

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

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

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

89 7. 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 foster youth amateur sports;

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

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

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

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

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

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

efforts;

14. *An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code that manages a museum that is operated, and has always been operated, exclusively for the purposes of musical heritage and the legacy of the "1927 Bristol Sessions";*

15. A local chamber of commerce; or

~~15.~~ 16. 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. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

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

4. 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 16 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 16 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.