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HOUSE BILL NO. 2458

Offered January 20, 2023

A BILL to amend and reenact §§ 18.2-340.19, 18.2-340.30, and 18.2-340.33 of the Code of Virginia, relating to charitable gaming; regulations related to electronic devices; prohibited practices.

Patron—Bagby

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.19, 18.2-340.30, and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.19. Regulations of the Department.

A. The Department shall adopt regulations that:

1. Require, as a condition of receiving a charitable gaming permit or authorization to conduct electronic gaming, that the applicant use a predetermined percentage of its receipts for (i) those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes, as follows:

a. With respect to charitable gaming, other than electronic gaming, a predetermined percentage of its gross receipts.

b. With respect to electronic gaming, a predetermined percentage of its electronic gaming adjusted gross receipts.

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation, or conduct of charitable gaming may be required in order for the Department to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the Department in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits and authorizing social organizations to conduct electronic gaming. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with §§ 18.2-340.30 and 18.2-340.30:2.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Department regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display ~~flashing lights or illuminations, or bells, whistles, or other sounds,~~ solely intended to entice players to play. Such regulations shall not prohibit (a) *devices that display spinning, rotating, or rolling reels or animations, flashing lights, or any other form of enhanced animation;* (b) *devices that accept tickets;* or (c) the use of multiple video monitors or touchscreens on an electronic gaming device.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation, or conduct of bingo; (ii) permit members who participate in the management, operation, or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 11 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

8. Prescribe the conditions under which persons who are bona fide members of a qualified

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59 organization or a child, above the age of 13 years, of a bona fide member of such organization may
60 participate in the conduct or operation of bingo games.

61 9. Prescribe the conditions under which a person below the age of 18 years may play bingo,
62 provided that such person is accompanied by his parent or legal guardian.

63 10. Require all qualified organizations that are subject to Department regulations to post in a
64 conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free
65 telephone number for "Gamblers Anonymous" or other organization which provides assistance to
66 compulsive gamblers.

67 11. Prescribe the conditions under which a qualified organization may sell network bingo cards in
68 accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo
69 sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the
70 network bingo provider. The regulations shall also establish procedures for the retainage and ultimate
71 distribution of any unclaimed prize.

72 12. Prescribe the conditions under which a qualified organization may manage, operate, or contract
73 with operators of, or conduct Texas Hold'em poker tournaments.

74 13. Prescribe the conditions under which a qualified organization may lease the premises of a
75 permitted social organization for the purpose of conducting bingo, network bingo, instant bingo, pull
76 tabs, seal cards, and electronic gaming permitted under this article and establish requirements for proper
77 financial reporting of all disbursements, gross receipts, and electronic gaming adjusted gross receipts and
78 payment of all fees required under this article.

79 B. The Commissioner may, by regulation, approve variations to the card formats for bingo games,
80 provided that such variations result in bingo games that are conducted in a manner consistent with the
81 provisions of this article. Department-approved variations may include bingo games commonly referred
82 to as player selection games and 90-number bingo.

83 **§ 18.2-340.30. Reports of gross receipts, electronic gaming adjusted gross receipts, and**
84 **disbursements required; form of reports; failure to file.**

85 A. 1. Each qualified organization shall keep a complete record of all:

86 a. Inventory of charitable gaming supplies purchased.

87 b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to
88 each type of game offered.

89 c. Electronic gaming adjusted gross receipts.

90 d. Disbursements related to charitable gaming and electronic gaming operations, ~~including a~~
91 ~~breakdown of disbursements for each purpose specified in subdivision 1 of § 18.2-340.33.~~

92 2. Except as provided in §§ 18.2-340.23 and 18.2-340.30:2, each qualified organization shall file
93 under penalty of perjury and at least annually, on a form prescribed by the Department, a report of all
94 receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to
95 charitable gaming as of the end of the period covered by the report, and any other information related to
96 its charitable gaming operation that the Department may require. In addition, the Commissioner, by
97 regulation, may require any qualified organization whose net receipts exceed a specified amount during
98 any three-month period to file a report of its receipts and disbursements for such period. All reports
99 filed pursuant to this section shall be a matter of public record.

100 B. All reports required by this section shall be filed on or before the date prescribed by the
101 Department. The Commissioner, by regulation, shall establish a schedule of late fees to be assessed for
102 any organization that fails to submit required reports by the due date.

103 C. Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an
104 outside individual or group who shall be responsible for filing an annual, and, if required, quarterly,
105 financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming
106 activities. The Department shall require such reports as it deems necessary until all proceeds of any
107 charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in
108 a manner approved by the Department.

109 D. Each qualified organization shall maintain for three years a complete written record of (i) all
110 charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved
111 by the Department; (ii) the name and address of each individual to whom is awarded any charitable
112 gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication
113 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements,
114 including operating costs and use of proceeds incurred in operating bingo games.

115 E. The failure to file reports within 30 days of the time such reports are due shall cause the
116 automatic revocation of the permit, and no organization shall conduct any bingo game or raffle
117 thereafter until the report is properly filed and a new permit is obtained. However, the Department may
118 grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an
119 organization, provided the organization requests an extension within 15 days of the time such reports are
120 due and all projected fees are paid. For the term of any such extension, the organization's permit shall

not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 18.2-340.33. Prohibited practices.

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts or electronic gaming adjusted gross receipts derived by a qualified organization may be used for any purpose other than (i) gaming expenses; (ii) reasonable and proper business expenses; and (iii) those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized.

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. 2. No person shall pay or receive for use of any premises wholly devoted to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. 3. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation, or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees and (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards.

5. 4. No person shall receive any remuneration for participating in the management, operation, or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation, or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation, or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Department regulations;

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session; and

182 f. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel
183 expenses, not to exceed \$50 per session.

184 6- 5. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the
185 conduct, management, or operation of any bingo games; (ii) sell, lease, or otherwise provide for
186 consideration any bingo supplies, including bingo cards, instant bingo cards, or other game pieces; or
187 (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor, or
188 supplier of bingo supplies or equipment be used by the organization.

189 The provisions of this subdivision shall not apply to any qualified organization conducting bingo
190 games on its own behalf at premises owned by it.

191 7- 6. No qualified organization shall enter into any contract with or otherwise employ or compensate
192 any member of the organization on account of the sale of bingo supplies or equipment.

193 8- 7. No organization shall award any bingo prize money or any merchandise valued in excess of the
194 following amounts:

195 a. No bingo door prize shall exceed \$250 for a single door prize or \$500 in cumulative door prizes
196 in any one session;

197 b. No regular bingo or special bingo game prize shall exceed \$100. However, up to 10 games per
198 bingo session may feature a regular bingo or special bingo game prize of up to \$200;

199 c. No instant bingo, pull tab, or seal card prize for a single card shall exceed ~~\$2,000~~ \$10,000;

200 d. Except as provided in this subdivision & 7, no bingo jackpot of any nature whatsoever shall
201 exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed
202 \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be
203 accounted for separately from the bingo cards or sheets used for any other bingo games; and

204 e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo
205 cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

206 9- 8. The provisions of subdivision & 7 shall not apply to:

207 a. Any progressive bingo game, in which (i) a regular or special prize, not to exceed \$100, is
208 awarded on the basis of predetermined numbers or patterns selected at random and (ii) a progressive
209 prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive
210 prize, is awarded if the predetermined numbers or patterns are covered when a certain number of
211 numbers is called, provided that (a) there are no more than six such games per session per organization,
212 (b) the amount of increase of the progressive prize per session is no more than \$200, (c) the bingo cards
213 or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo
214 games, (d) the organization separately accounts for the proceeds from such sale, and (e) such games are
215 otherwise operated in accordance with the Department's rules of play;

216 b. Any progressive pull tab game or authorized electronic version thereof, in which a progressive
217 prize, not to exceed \$10,000 for the initial progressive prize, is awarded, provided that (i) the pull tabs
218 used in such games are sold separately from the pull tabs used for any other pull tab games, (ii) the
219 organization separately accounts for the proceeds from such sale, and (iii) such game is otherwise
220 operated in accordance with the Department's rules of play; or

221 c. Any statewide progressive pull tab game or authorized electronic version thereof, in which a
222 progressive prize, not to exceed \$10,000 for the initial progressive prize, is awarded, provided that (i)
223 the pull tabs used in such games are sold separately from the pull tabs used for any other pull tab
224 games, (ii) the supplier or manufacturer of the pull tab pays the progressive prize to the player, (iii) the
225 supplier or manufacturer of the pull tab separately accounts for the proceeds from such sale, and (iv)
226 such games are otherwise operated in accordance with the Department's rules of play.

227 10- 9. No organization shall award any raffle prize valued at more than \$100,000.

228 The provisions of this subdivision shall not apply to a raffle conducted no more than three times per
229 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of
230 the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100
231 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost
232 of acquisition of the land and materials, are donated to lawful religious, charitable, community, or
233 educational organizations specifically chartered or organized under the laws of the Commonwealth and
234 qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any
235 one geographical region of the Commonwealth.

236 11- 10. No qualified organization composed of or for deaf or blind persons which employs a person
237 not a member to provide clerical assistance in the management and operation but not the conduct of any
238 charitable games shall conduct such games unless it has in force fidelity insurance, as defined in
239 § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

240 12- 11. No person shall participate in the management or operation of any charitable game if he has
241 ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud,
242 theft, or financial crimes within the preceding five years. No person shall participate in the conduct of
243 any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within

the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation, or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance, or Department regulation.

~~13.~~ 12. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

~~14.~~ 13. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Department as a supplier pursuant to § 18.2-340.34.

~~15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.~~

~~16.~~ 14. No organization qualified to conduct Texas Hold'em poker tournaments pursuant to § 18.2-340.28:2 shall conduct any Texas Hold'em poker games where the game has no predetermined end time and the players wager actual money or poker chips that have cash value.