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HOUSE BILL NO. 523**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on General Laws)

(Patrons Prior to Substitute—Delegates Krizek and Ballard [HB 298])

House Amendments in [] - February 6, 2024

A BILL to amend and reenact §§ 18.2-340.16, 18.2-340.19, and 18.2-340.31 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.31:1, relating to charitable gaming.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.19, and 18.2-340.31 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.31:1 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

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. 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;

16. 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;

17. A local chamber of commerce; or

18. 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, (i) salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members or (ii) *expenses for social or recreational activities for the principal benefit of a social 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 November 10, 1922, that is qualified under § 501(c)(4) of the Internal Revenue Code, is the only federally chartered Marine Corps-related veterans organization in the country, and is operated for the purpose of promoting the interest and preserving the traditions of the United States Marine Corps;*

3. 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- 4. 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- 5. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal

182 Revenue Code;

183 5. 6. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal
184 Revenue Code; or

185 6. 7. A post or organization of past or present members of the Armed Forces of the United States, or
186 an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under
187 § 501(c)(19) of the Internal Revenue Code.

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

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

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

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

212 **§ 18.2-340.19. Regulations of the Department.**

213 A. The Department shall adopt regulations that:

214 1. Require, as a condition of receiving a charitable gaming permit or authorization to conduct
215 electronic gaming, that the applicant use a predetermined percentage of its receipts for ~~(i)~~ those lawful
216 religious, charitable, community, or educational purposes for which the organization is specifically
217 chartered or organized ~~or (ii)~~, *including (i) those expenses relating to the acquisition, construction,*
218 *maintenance, or repair of any interest in real property or (ii) expenses related to the rental of real*
219 *property by an organization as described by subdivision 5, 6, or 7 of the definition of "social*
220 *organization" in § 18.2-340.16 where such real property is involved in the operation of the organization*
221 *and used for lawful religious, charitable, community, or educational purposes, as follows:*

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

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

226 2. Specify the conditions under which a complete list of the organization's members who participate
227 in the management, operation, or conduct of charitable gaming may be required in order for the
228 Department to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of
229 § 18.2-340.24.

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

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

236 4. Establish requirements for the audit of all reports required in accordance with §§ 18.2-340.30 and
237 18.2-340.30:2.

238 5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Department
239 regulations shall include capacity for such equipment to provide full automatic daubing as numbers are
240 called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull
241 tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or
242 seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards,
243 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 or flashing lights*; (b) *devices that accept vouchers*; (c) *the purchase and play of an electronic pull tab with a single press or touch of a button*; or (d) 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 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 organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

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

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

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

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

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

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

§ 18.2-340.31. Audit of reports; exemption; audit and administration fee; additional assessment of gross receipts and electronic gaming adjusted gross receipts.

A. All reports filed pursuant to §§ 18.2-340.30 and 18.2-340.30:2 shall be subject to audit by the Department in accordance with Department regulations. The Department may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities under this article.

B. The Department shall prescribe a reasonable audit and administration fee to be paid by (i) any organization conducting charitable gaming under a permit issued by the Department unless the organization is exempt from such fee pursuant to § 18.2-340.23 or (ii) any electronic gaming manufacturer that holds a permit issued by the Department pursuant to § 18.2-340.34. Such fee shall not exceed ~~one-half~~ *one-quarter* of one percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 or ~~one-half~~ *one-quarter* of one percent of the electronic gaming adjusted gross receipts that an electronic gaming manufacturer reports pursuant to § 18.2-340.30:2. The audit and administration fee shall accompany each report for each calendar quarter.

C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the Department for the purposes of auditing and regulating charitable gaming.

D. In addition to the fee imposed under subsection B, an additional fee of (i) one-quarter of one percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 shall be paid by the organization or (ii) one-quarter of one percent of the electronic gaming adjusted gross receipts that an

305 electronic gaming manufacturer reports pursuant to § 18.2-340.30:2 shall be paid by the electronic
306 gaming manufacturer to the Treasurer of Virginia. All such amounts shall be collected and deposited in
307 the same manner as prescribed in subsections B and C and shall be used for the same purposes.

308 **§ 18.2-340.31:1. Additional fees; problem gambling treatment and support efforts.**

309 *A. The Department shall require an additional fee to be paid by qualified organizations and*
310 *electronic gaming manufacturers for the purpose of supporting problem gambling treatment and support*
311 *efforts in the Commonwealth. Any organization conducting charitable gaming under a permit issued by*
312 *the Department shall pay a fee of one-quarter of one percent of the gross receipts that such*
313 *organization reports pursuant to § 18.2-340.30, and any electronic gaming manufacturer that holds a*
314 *permit issued by the Department pursuant to § 18.2-340.34 shall pay a fee of one-quarter of one percent*
315 *of the adjusted gross receipts that such manufacturer reports pursuant to § 18.2-340.30:2. The fee shall*
316 *accompany each report for each calendar quarter.*

317 *B. All such fees received by the Department in accordance with subsection A shall be deposited in*
318 *the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.*

319 **[2. That, by December 1, 2024, the Department of Agriculture and Consumer Services (the**
320 **Department) shall promulgate regulations prohibiting qualified social organizations from**
321 **conducting electronic gaming in a separately demised premises that has a direct or indirect means**
322 **of ingress to or egress from any adjacent space unless such space is used exclusively by members**
323 **or guests of such qualified organization. The Department's initial adoption of regulations necessary**
324 **to implement the provisions of this enactment shall be exempt from the Administrative Process**
325 **Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Department shall provide an**
326 **opportunity for public comment on such regulations prior to adoption.]**