

LD6779633

SENATE BILL NO. 210

Offered January 24, 1994

A *BILL to amend and reenact §§ 18.2-340.1, 18.2-340.2, 18.2-340.3, 18.2-340.4, 18.2-340.5, 18.2-340.9, and 18.2-340.11 of the Code of Virginia, relating to the conduct of bingo games and raffles.*

Patrons—Colgan, Benedetti and Robb; Delegates: Cantor, Croshaw, DeBoer and Woodrum

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.1, 18.2-340.2, 18.2-340.3, 18.2-340.4, 18.2-340.5, 18.2-340.9, and 18.2-340.11 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.1. Definitions.

The following words shall have the following meanings:

1. "Organization" means any one of the following:

(a) A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision.

(b) An organization operated exclusively for religious, charitable, community or educational purposes; an association of war veterans or auxiliary units thereof organized in the United States; or a fraternal association operating under the lodge system.

2. "Bingo" means a specific game of chance played with individual cards having randomly numbered squares ranging from one to seventy-five, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five vertical rows headed respectively by the letters B.I.N.G.O., with each row having five randomly numbered squares.

3. "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". However, nothing in this article shall prohibit an organization from using the State Lottery Department's Pick-3 number as the basis for determining the winner of a lottery. For purposes of this definition, "raffle" shall include determining the winner of a lottery by use of prepackaged pull-tab devices which are devices made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses and may include the use of a seal which conceals a number or symbol that has been designated in advance as a prize winner including but not limited to pull-tab devices commonly known as tip boards or seal cards.

4. "Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, with winners being determined by the preprinted appearance of the letters B.I.N.G.O. in any prescribed order on the reverse side of such card.

5. "Jackpot" means a bingo card played as a part of a bingo game defined in subdivision 2 in which all numbers on the card are covered, each number being selected at random, and with no more than one free or "wild" numbers number.

6. "Duck race" means a game of chance played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. Any and all restrictions and requirements applicable to the conduct of raffles in this article shall also apply to the conduct of duck races.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, or employee thereof, which owns and leases, or leases any premise devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord.

§ 18.2-340.2. Annual permit required; application fee; form of application.

Prior to the commencement of any bingo game or raffle by a qualified organization as defined in this article, the organization shall be required to obtain an annual permit from the governing body of each city or county, or any town with a population of more than 2,500 that has adopted an ordinance pursuant to § 18.2-340.8, in which a bingo game or raffle is to be conducted, or from a local official, designated by the governing body. The permit shall only be granted after a reasonable investigation has been conducted by the locality or local official. Application for the annual permit shall be accompanied

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60 by a check in the amount of twenty-five dollars payable as designated by the local governing body or
61 local official. In addition, the local governing body or local official may assess applicants for the cost of
62 processing bingo and raffle applications. The application fee and additional charges may be waived by
63 the local governing body. Application for an annual permit shall be made on the following form.
64 However, the form may be expanded to include any other information desired by the local governing
65 body or local official. The application shall be a matter of public record.

66 APPLICATION FOR PERMIT TO HOLD BINGO GAMES AND RAFFLES

67 1. Name of organization
68 Address or Headquarters
69 Address where bingo games will be held or raffle drawing will be
70 conducted

71
72
73

74 Note: This permit is valid only at the above location
75 Days and times on which games are to be held

76 2. When was your organization founded? Has your organization
77 been in existence in this city, town or county for ~~two~~ five
78 continuous years?

79 Is it a nonprofit organization? Tax Exempt Status
80 No. (if applicable)

81 Gross receipts from all sources related to the operation of bingo
82 games or instant bingo by calendar quarter for 12-month period
83 immediately prior to date of this application

84 1st Quarter 2nd Quarter
85 3rd Quarter 4th Quarter

86 State the specific type and purpose of your organization.
87
88
89

90 3. Officers of organization:
91 President Address
92 Secretary Address
93 Treasurer Address

94 4. Type of permit applied for: Bingo Games Raffles

95 5. Member authorized by your organization who will be responsible
96 for bingo or raffle operation?

97 Name
98 Address
99 Phone Business Phone

100 6. Individual responsible for filing the financial report required
101 by this article if your organization ceases to exist.

102 Name
103 Address
104 Phone Business Phone

105 7. Does your organization understand that it is a violation of law
106 to enter into a contract with any person or firm, association,
107 organization (other than another qualified organization pursuant to
108 § 18.2-340.13 of the Code of Virginia), partnership or corporation of
109 any classification whatsoever, for the purpose of organizing,
110 managing or conducting bingo games or raffles?

111 8. Does your organization understand that it must maintain and
112 file complete records of receipts and disbursements pertaining to
113 bingo games and raffles and that such records are subject to audit
114 by(insert designated local official)?

115 9. Has your organization attached a check for the annual permit
116 fee payable to the (insert designated local

official)?

10. Does your organization understand that any organization found in violation of § 18.2-340.10 of the Code of Virginia authorizing this permit is subject to having such permit revoked and any organization or person, shareholder, agent, member or employee of such organization who violated § 18.2-340.10 or Article 1.1 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia may be guilty of a felony?

11. Does your organization understand that it will be required to furnish a complete list of its membership upon the request of the local governing body?

12. I hereby swear or affirm under the penalties of perjury as set forth in § 18.2-434 of the Code of Virginia, that all of the above statements are true to the best of my knowledge, information and beliefs. All questions have been answered.

Signed by

.....

Name	Title	Address
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Subscribed and sworn to before me, thisday of, 19..

My commission expires:

....., 19.. Notary, 19.. Notary Public.

§ 18.2-340.3. Requirement for issuance of permit; where valid; duration; permits subject to local regulation.

Prior to the issuance of any permit, the organization must meet the following requirements:

1. Except for recently established volunteer fire and rescue companies or departments, as defined in this article, after county, city or town approval, the organization shall have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town where application is made for a period of at least ~~two~~ *five* years immediately prior to applying for a permit. ~~The local governing body may require the organization to have a membership consisting of at least fifty percent residents of the Commonwealth, and to furnish a complete list of its membership in order for the local governing body to ascertain the percentage of Virginia residents. In no case shall the organization apply for or receive more than one permit.~~ However, this requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or a national or international civic organization which is exempt under § 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a bingo permit issued under the provisions of this article anywhere within this Commonwealth, or (ii) where the local governing body of a county, city or town provides for the issuance of a bingo or raffle permit to booster clubs which have been operating for less than ~~two~~ *five* years, and which have been established solely to raise funds for school-sponsored activities in public schools which are less than ~~two~~ *five* years old. *The local governing body shall require the organization to have a membership consisting of at least fifty percent residents of the Commonwealth, and to furnish a complete list of its membership in order for the local governing body to ascertain the percentage of Virginia residents. In no case shall the organization apply for or receive more than one permit.*

2. A permit shall be valid only in the jurisdiction wherein the application is approved and only at the locations designated in the permit application. However, a permit may be issued to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another and complies with the requirements of subdivision 1 of this section and provided further that the organization was the holder of a valid permit at the time of its relocation. An organization which has obtained a permit under this article to conduct a raffle may sell raffle tickets both in and out of the jurisdiction issuing the permit and may conduct its drawing either in the jurisdiction in which a majority of the tickets were sold or in the jurisdiction issuing the permit, except that pull-tab devices as defined in § 18.2-340.1 used as part of a raffle may be sold only upon the premises owned or exclusively leased by such organization and at such times as it is not ~~opened~~ *open* to the public, except to members and their guests.

3. The organization shall be operated currently and shall have always been operated in the past as a nonprofit organization and shall have been in existence as a nonprofit organization for a period of at least ~~two~~ *five* years immediately prior to seeking a permit as hereinafter provided.

4. Any organization whose gross receipts from all bingo operations exceed or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal

176 Revenue Service, the same documentation may be filed with the local governing body for an interim
177 certification of tax-exempt status. If such documentation is filed, the local governing body may, after
178 reviewing such documentation as it may deem necessary, issue its determination of tax-exempt status
179 within sixty days of receipt of such documentation. The local governing body may charge a reasonable
180 fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal
181 Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is
182 earlier.

183 5. An organization shall designate an individual who shall be responsible for filing the annual or
184 quarterly financial report required by this article if the organization goes out of business or otherwise
185 ceases to exist.

186 All permits shall be issued on a calendar basis and unless otherwise provided shall be valid for one
187 calendar year beginning on January 1.

188 All applications for a permit shall be acted upon by the governing body, or its designated official,
189 within sixty days from the filing thereof.

190 Upon compliance by the applicant with the provisions of this article, and at the discretion of the
191 governing body or its designated official, a permit may be issued. All permits shall be subject to
192 reasonable regulation by the local governing body or its designated local official to ensure the public
193 safety and welfare in the operation of bingo games and raffles. ~~Any~~ A local governing body ~~may~~ shall,
194 by ordinance, require as a condition of receiving the permit that the permittee ~~shall~~ use a predetermined
195 percentage of its gross receipts from all bingo games or raffles for (i) those lawful religious, charitable,
196 community or educational purposes for which the organization is specifically chartered or organized or
197 (ii) *those expenses relating to the acquisition, construction, maintenance, or repair of any interest in the*
198 *real property involving the operation of the organization and used for lawful religious, charitable,*
199 *community or educational purposes.* The percentage shall be uniformly applied and shall be determined
200 by the local governing body.

201 § 18.2-340.4. Frequency and conduct of bingo games.

202 No organization may hold bingo games more frequently than two calendar days in any one calendar
203 week, except that a special permit may be granted an organization which entitles the organization to
204 conduct more frequent operations during carnivals, fairs and other similar events at its principal meeting
205 place or any other site selected by such organization which is located in the jurisdiction issuing the
206 permit and which is not in violation of any local zoning ordinance.

207 The sponsoring organization shall accept only cash or, at its option, checks in payment of any
208 charges or assessments for players to participate in bingo games. *However, no organization shall accept*
209 *postdated checks in payment of any charges or assessments for players to participate in bingo games.*
210 *No organization or any person on the premises shall extend lines of credit or accept any credit or debit*
211 *card or other electronic fund transfer in payment of any charges or assessments for players to*
212 *participate in bingo.*

213 § 18.2-340.5. "Instant bingo."

214 A. Any organization qualified to conduct bingo games pursuant to the provisions of this article is
215 authorized to play "instant bingo" as a part of such bingo game and only at such location and at such
216 times as are specified in the bingo application permit for regular bingo games as defined in
217 § 18.2-340.1.

218 B. The gross receipts in the course of a reporting year from the playing of "instant bingo" shall not
219 exceed fifty percent of the gross receipts of an organization's bingo operation.

220 C. The governing body of any county, city or town is hereby authorized to adopt a local ordinance
221 prohibiting the playing of "instant bingo."

222 D. Any organization playing "instant bingo" shall maintain a record of the date, quantity and card
223 value of instant bingo supplies purchased as well as the name and address of the supplier of such instant
224 bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of
225 the organization verifying any information required by this subsection.

226 E. No organization shall sell an "instant bingo" card to any individual below ~~sixteen~~ eighteen years
227 of age.

228 § 18.2-340.9. Prohibited practices.

229 In addition to those other practices prohibited by this article, the following acts or practices shall also
230 be prohibited under the provisions of this article:

231 A. Except for reasonable and proper operating costs, including costs associated with providing
232 clerical assistance in the conduct of bingo games or raffles for organizations composed of or for deaf or
233 blind persons, publicizing the time and place of bingo games and raffles, and prizes, no part of the gross
234 receipts derived by an organization, as herein defined, permitted to conduct bingo games or raffles may
235 be used for any purpose other than (i) those lawful religious, charitable, community or educational
236 purposes for which the organization is specifically chartered or organized and (ii) expenses relating to
237 the acquisition, construction, maintenance, or repair of any interest in the real property involving the

operation of the organization and used for lawful religious, charitable, community or educational purposes.

B. No organization shall enter into a contract with, or otherwise employ for compensation any person, firm, association, organization, partnership, or corporation of any classification whatsoever for the purpose of organizing, managing, or conducting bingo games or raffles. However, this subsection shall not prohibit the joint operation of bingo games under § 18.2-340.13.

C. No person, firm, association, organization, partnership, or corporation shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of bingo games or raffles any consideration in excess of the current fair market rental value of such property. For purposes of this article, no fair market rental value consideration shall be based upon or determined by reference to a percentage of the proceeds derived from the operation of bingo games or raffles nor shall such consideration be based upon or determined by any reference to the number of people in attendance at such bingo games or raffles. Each day in violation of this subsection shall constitute a separate Class 1 misdemeanor as set forth in § 18.2-340.10.

D. No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week, and the local governing body of any county, town, or city may adopt an ordinance establishing a reasonable limitation on the number of bingo games that may be conducted in any one calendar day. However, the provisions of this subsection shall not apply to the playing of bingo pursuant to a special permit issued in accordance with § 18.2-340.4. The local governing body of any county, town, or city may adopt an ordinance establishing reasonable hours during which bingo games held pursuant to this article may be played within such jurisdiction. No building or other premises owned by an organization as defined in § 18.2-340.1 of this article and qualified as a tax-exempt organization pursuant to § 501 (c) of the Internal Revenue Code shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week. One building or premises owned by any county, city, or town shall be exempt from the provisions of this subsection.

E. Except for (i) persons employed as clerical assistants by organizations composed of or for deaf or blind persons, (ii) ~~members of civic and fraternal groups or~~ (iii) ~~employees of a corporate sponsor of a qualified organization,~~ only bona fide members of any such organization who have been members of such organization for at least ninety days prior to such participation shall participate in the management, operation or conduct of any bingo game or raffle. *Notwithstanding the foregoing, employees of a corporate sponsor of a qualified organization may participate in the management, operation or conduct of one raffle per year.* Except as provided herein, no person shall receive any remuneration for participating in the management, operation or conduct of any such game or raffle. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty dollars per event for providing clerical assistance in the conduct of bingo games or raffles only for such organizations. ~~The local governing body may, by ordinance, limit the number of organizations for which any person may participate in the management, operation, or conduct of bingo games or raffles.~~ Persons eighteen years of age and under who sell raffle tickets to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization provided that organization is nonprofit. The spouse of any such bona fide member or a fire fighter or rescue squad member employed by a political subdivision with which the volunteer fire fighter or rescue squad member is associated may participate in the operation and conduct of a bingo game or raffle if a bona fide member is present.

F. ~~No person shall manage, operate or conduct bingo games or raffles if, within the past five years, he has been convicted of a felony or a crime involving moral turpitude, or has operated a bingo game or raffle in violation of state law or local ordinance.~~ *landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, markers, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment, and each service to be provided by the landlord.*

The provisions of this subsection shall not apply to any charitable organization conducting bingo games on their own behalf and owns the premises where such bingo games are held.

G. No organization shall enter into any contract with or otherwise employ or compensate any member of that organization regarding the sale of bingo supplies or equipment.

H. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts: (i) no bingo door prize shall exceed \$25, (ii) no regular bingo or special bingo game prize shall exceed \$100, (iii) no instant bingo prize for a single card shall exceed \$500, and (iv) no

bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

Except as provided herein, no organization shall award any raffle prize valued at more than \$100,000. The \$100,000 limitation shall not apply to a raffle conducted no more than once per calendar year by an organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501 (c) (3) tax-exempt organization.

The award of any prize money for any bingo game or raffle shall not be deemed to be part of any gaming contract within the purview of § 11-14.

I. Any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players shall not be subject to the limitations of subdivision H of this section, but there shall not be more than one such game per calendar day of play and the prize money from any such game shall not exceed \$1,000.

J. Any organization composed of or for deaf or blind persons that employs a person not a member to provide clerical assistance in the conduct of bingo games or raffles shall have in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

K. No person shall participate in the management, operation or conduct of any bingo game or raffle if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. Further, no person shall participate in the management, operation or conduct of any bingo game or raffle if that person, within the past five years, has participated in the management, operation, or conduct of any bingo game or raffle which was found by a local permitting authority or by a court of competent jurisdiction to have been operated in violation of state law or local ordinance.

§ 18.2-340.11. Injunctive relief.

In the event that an organization violates the provisions of this article, ~~then the attorney for the Commonwealth or the appropriate city or county attorney of the political subdivision which issued a permit may; in addition to the foregoing criminal penalties,~~ apply to the appropriate circuit court for an injunction restraining the continued operation of bingo games or raffles or any aspect thereof, *in addition to the criminal penalties authorized by this article.*

2. That the provisions of this act requiring organizations to be in existence for five years prior to the issuance of a permit shall apply only to original permit applications filed on or after the effective date of this act.