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SENATE BILL NO. 133

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 26, 1996)

(Patron Prior to Substitute—Senator Colgan)

A *BILL to amend and reenact §§ 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22, 18.2-340.23, 18.2-340.24, 18.2-340.25, 18.2-340.26, 18.2-340.28, 18.2-340.29, 18.2-340.30, 18.2-340.33, 18.2-340.34, 18.2-340.37, 18.2-340.38, and 58.1-3 of the Code of Virginia, relating to the Charitable Gaming Commission; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22, 18.2-340.23, 18.2-340.24, 18.2-340.25, 18.2-340.26, 18.2-340.28, 18.2-340.29, 18.2-340.30, 18.2-340.33, 18.2-340.34, 18.2-340.37, 18.2-340.38, and 58.1-3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-340.15. State control of charitable gaming; purpose.

A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of ~~funding~~ enabling qualified organizations to raise funds for legitimate purposes while avoiding the commercial aspects of gaming. It is the purpose of this article to protect the public interest by providing for the equitable regulation of charitable gaming throughout the Commonwealth and to enhance the integrity of charitable gaming by requiring accountability by all participants in the activity and maximizing the returns to qualified organizations. The Charitable Gaming Commission is vested with control of all charitable gaming in the Commonwealth, with plenary power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

B. The conduct of any charitable gaming is a privilege which may be granted or denied by the Charitable Gaming Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.

§ 18.2-340.16. Definitions.

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

"Adjusted gross receipts" means the total amount of money received by an organization from charitable gaming after the deduction of prizes.

"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 columns headed respectively by the letters B.I.N.G.O., with each column having five randomly numbered squares, except the center column which shall contain one free space.

"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 and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games.

"Commission" means the Charitable Gaming Commission.

"Gross receipts" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, made completely of paper or paper products, with winners being determined by the preprinted 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 which conceals one or more numbers or symbols that have been designated in advance as prize winners. *Such cards may be dispensed by electronic or mechanical equipment.*

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

"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.

"Management, operation, or conduct of charitable gaming" includes the provision of oversight and supervision of charitable gaming; deposit of proceeds from charitable gaming activities; check writing

60 or approval authority; purchase authority for charitable gaming equipment or supplies; preparation of
61 daily, quarterly or annual financial reports or negotiation of contracts or leases unless performed by
62 nonmember professionals at reasonable costs; service as a volunteer worker or assistant, or involvement
63 in charitable gaming in any manner other than as a player.

64 "Organization" means any one of the following:

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

68 2. An organization operated exclusively for religious, charitable, community or educational purposes;

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

70 4. A fraternal association or corporation operating under the lodge system.

71 "Qualified organization" means any organization to which a valid permit has been issued by the
72 Commission to conduct charitable gaming or any organization which is exempt pursuant to
73 § 18.2-340.23.

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

78 For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made
79 completely of paper or paper products, with winners being determined by the appearance of preprinted
80 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses,
81 such cards being commonly referred to as "pull tabs." *Such cards may be dispensed by electronic or*
82 *mechanical equipment.*

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

85 § 18.2-340.18. Powers and duties of the Commission.

86 The Commission shall have all powers and duties necessary to carry out the provisions of this article
87 and to exercise the control of charitable gaming as set forth in § 18.2-340.15. Such powers and duties
88 shall include but not be limited to the following:

89 1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized
90 under the provisions of this article and including all persons that conduct or provide goods, services or
91 premises used in the conduct of charitable gaming. It may employ such persons as are necessary to
92 ensure that charitable gaming is conducted in conformity with the provisions of this article and the
93 regulations of the Commission. The Commission may designate such agents and employees as it deems
94 necessary and appropriate to be vested with like power to enforce the provisions of this article and the
95 criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of any county, city
96 or town.

97 2. The Commission, its agents and employees and any law-enforcement officers charged with the
98 enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place
99 of business of any organization, including any premises devoted in whole or in part to the conduct of
100 charitable gaming. These individuals may enter such places or premises for the purpose of carrying out
101 any duty imposed by this article, securing records required to be maintained by an organization,
102 investigating complaints, or conducting audits.

103 3. The Commission may compel the production of any books, documents, records, or memoranda of
104 any organizations or supplier for the purpose of satisfying itself that this article and its regulations are
105 strictly complied with. In addition, the Commission may require the production of an annual balance
106 sheet and operating statement of any person granted a permit pursuant to the provisions of this article
107 and may require the production of any contract to which such person is or may be a party.

108 4. The Commission shall promulgate regulations under which charitable gaming shall be conducted
109 in the Commonwealth and all such other regulations that it deems necessary and appropriate to effect
110 the purposes of this article. Such regulations may include penalties for violations. The regulations shall
111 be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

112 5. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths,
113 and compel production of records or other documents and testimony of such witnesses whenever, in the
114 judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

115 6. The Commission may compel any person holding a permit to file with the Commission such
116 documents, information or data as shall appear to the Commission to be necessary for the performance
117 of its duties.

118 7. The Commission may enter into arrangements with any governmental agency of this or any other
119 state or any locality in the Commonwealth for the purposes of exchanging information or performing
120 any other act to better ensure the proper conduct of charitable gaming.

121 8. The Commission may issue interim certification of tax-exempt status and collect a fee therefor in

accordance with subsection B of § 18.2-340.24.

9. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission and any recommendations for legislation applicable to charitable gaming in the Commonwealth.

10. The Commission, its agents and employees may conduct such audits, in addition to those required by § 18.2-340.31, as they deem necessary and desirable.

11. The Commission may limit the number of organizations for which a person may manage, operate or conduct charitable games.

12. The Commission may report any alleged criminal violation of this article to the appropriate attorney for the Commonwealth for appropriate action.

13. *In addition to the fees authorized pursuant to §§ 18.2-340.31 and 18.2-340.34, the Commission may levy and collect reasonable fees sufficient to cover all expenses for the administration and operation of the Commission.*

14. *The Commission shall require a background investigation to include a Virginia criminal history record information check of the following persons: (i) every person applying for a permit to conduct charitable gaming or license to sell charitable gaming supplies and equipment and (ii) all employees of the Commission. As a condition of employment, the Commission shall require any applicant who is offered or accepts employment to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a National Criminal History Records check. Persons convicted of a felony or crime of moral turpitude shall not be employed by the Commission.*

15. *The Commission may issue provisional permits or licenses which shall be valid for no more than 180 days pending completion of background investigations.*

16. *The Commission may request verification of compliance with state and federal tax laws by persons applying for permits and licenses, or holders thereof seeking renewal of such permits or licenses.*

§ 18.2-340.19. Regulations of the Commission.

A. The Commission shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross 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. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Commission finds appropriate to and consistent with the purpose of charitable gaming.

2. Require the organization to have at least fifty percent of its membership consist of residents of the Commonwealth and specify the conditions under which a complete list of the organization's membership may be required in order for the Commission to ascertain the percentage of Virginia residents; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal Revenue Code, the Commission shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Commission 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 (§ 2.1-340 et seq.).

3. Prescribe fees for processing applications *and* for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted *and the cost of the administration and operation of the Commission.*

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

5. *Define electronic and mechanical equipment used in the conduct of charitable gaming.*

B. *The Commission may adopt regulations which define a limit for reasonable rent paid by organizations to lease premises to conduct charitable gaming.*

§ 18.2-340.20. Denial, suspension or revocation of permit; hearings and appeals.

A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. *The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).*

B. ~~No~~ *Except as provided in § 18.2-340.36, no* permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Commission, hearings may be conducted by hearing

183 officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court.
184 After a hearing on the issues, the Commission may refuse to issue or may suspend or revoke any such
185 permit if it determines that the organization has not complied with the provisions of this article or the
186 regulations of the Commission.

187 C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or
188 revocation of a permit, or any other action of the Commission, may, within thirty days of such action,
189 appeal to the circuit court in the jurisdiction where such charitable gaming was being or would have
190 been conducted. If the court finds based on the record of the Commission that the action of the
191 Commission is not supported by credible evidence, it shall order such relief as it deems appropriate. The
192 decision of the court shall be subject to appeal as in other cases at law. After a formal proceeding held
193 pursuant to § 9-6.14:12 where an organization's permit to conduct charitable gaming is denied,
194 suspended or revoked, the Commission may assess against such organization the cost of conducting the
195 proceeding, unless the Commission determines that the violation was inadvertent or done in the good
196 faith belief that the act giving rise to the proceeding did not violate the provisions of this article or the
197 regulations of the Commission. Any costs assessed shall be limited to the (i) reasonable hourly rate of
198 the hearing officer and (ii) actual cost of recording the proceeding.

199 § 18.2-340.22. Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

200 A. This article permits qualified organizations and organizations exempted under § 18.2-340.23 from
201 obtaining a permit to conduct raffles, bingo and instant bingo games. All games not explicitly authorized
202 by this article are prohibited.

203 B. The award of any prize money for any charitable game shall not be deemed to be part of any
204 gaming contract within the purview of § 11-14.

205 C. Nothing in this article shall prohibit an organization from using the State Lottery Department's
206 Pick-3 number or any number or other designation selected by the State Lottery Department in
207 connection with any lottery, as the basis for determining the winner of a raffle.

208 § 18.2-340.23. Organizations exempt from certain permit, financial reporting and audit requirements.

209 ~~Any~~ A. Except as otherwise provided in this section, any organization that reasonably expects to
210 realize gross receipts of \$25,000 or less in any twelve-month period, and a ~~any~~ volunteer fire department
211 or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the
212 political subdivision where the voluntary fire department or rescue squad is located as being a part of
213 the safety program of such political subdivision ~~which reasonably expects to realize gross receipts in~~
214 ~~any twelve-month period of \$250,000 or less~~, shall be exempt from the requirements of § 18.2-340.25 if,
215 prior to conducting charitable gaming, it notifies the Commission, on a form prescribed by the
216 Commission, that it will conduct charitable gaming. Any such organizations also shall be exempt from
217 the financial reporting and audit requirements of this article and the payment of audit fees but shall file
218 with the Commission, at such time or times as may be required by the Commission, a resolution of its
219 board of directors stating that the organization has complied with the provisions of this article. ~~If any of~~
220 ~~the organization's actual gross receipts for the twelve-month period exceed \$25,000, the Commission~~
221 ~~may require the organization to file by a specified date the report required by § 18.2-340.30.~~

222 B. ~~However, volunteer fire departments and rescue squads which reasonably expect to realize or~~
223 ~~actually realize gross receipts in excess of \$250,000 in a twelve-month period shall (i) furnish to the~~
224 ~~Commission a report of a licensed, independent certified public accountant as required by subsection D~~
225 ~~of § 18.2-340.30 and (ii) obtain a permit from the Commission.~~

226 C. ~~Except as provided in subsection B, the Commission may require any organization which~~
227 ~~anticipated gross receipts for a twelve-month period to be \$25,000 or less, but which realized gross~~
228 ~~receipts of more than \$25,000 in such period, to file by a specified date the report required by~~
229 ~~§ 18.2-340.30.~~

230 D. Nothing in this section shall prevent the Commission from conducting any investigation or audit it
231 deems appropriate to ensure ~~the~~ ~~an exempt~~ organization's compliance with the provisions of this article
232 or the Commission's regulations.

233 § 18.2-340.24. Eligibility for permit; exceptions; where valid.

234 A. To be eligible for a permit to conduct charitable gaming, an organization shall:

235 1. Have been in existence and met on a regular basis in the county, city or town or in a county, city
236 or town adjacent to the county, city or town wherein the organization proposes to conduct charitable
237 gaming for a period of at least three years immediately prior to applying for a permit.

238 The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or
239 international fraternal order or ~~to~~ of a national or international civic organization which is exempt under
240 § 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a
241 charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth;
242 (ii) to booster clubs which have been operating for less than three years and which have been
243 established solely to raise funds for school-sponsored activities in public schools which are less than
244 three years old; (iii) to recently established volunteer fire and rescue companies or departments, after

county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

B. Any organization whose gross receipts from all charitable gaming exceeds 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 Revenue Service, the same documentation may be filed with the Commission for an interim certification of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within sixty days of receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is earlier.

C. A permit shall be valid only for the locations designated in the permit.

§ 18.2-340.25. Annual permit required; application fee; form of application.

A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain an annual permit from the Commission.

B. All *completed* applications for a permit shall be acted upon by the Commission within sixty days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Commission, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. The application shall be a matter of public record.

All ~~permits~~ *qualified organizations, except to the extent provided by § 18.2-340.23*, shall be subject to regulation by the Commission to ensure the public safety and welfare in the *management, operation or conduct* of charitable games. ~~The A~~ permit shall only be granted after a reasonable investigation has been conducted by the Commission.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant to § 18.2-340.27.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Commission and shall be accompanied by payment of the ~~fee~~ *fees for the permit applied for and for processing the application*.

§ 18.2-340.26. Sale of raffle tickets; drawings.

A qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth; however, pull-tab devices used as part of a raffle as defined in § 18.2-340.16 may be sold only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull-tab devices are sold is open only to members and their guests.

§ 18.2-340.28. Conduct of instant bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo as a part of such bingo game ~~and~~, only at such location and at such times as designated in the permit for regular bingo games.

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

C. Any organization conducting instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Instant bingo supplies shall be paid for only by check drawn on an account of the organization. During the conduct of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies being used shall be maintained by the organization on the premises where the instant bingo is being conducted.

D. No qualified organization shall sell any instant bingo card to any individual under eighteen years of age.

§ 18.2-340.29. Joint operation of bingo games; written reports; special permit required.

A. Any two qualified organizations may jointly organize and conduct bingo games provided both have fully complied with all other provisions of this article.

B. Any two qualified organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this article that would apply to a single organization conducting bingo games and (ii) required to furnish to the Commission a written report setting forth the location where such games will be held; *and* the division of manpower, costs, and proceeds for each game to be jointly conducted.

306 Upon a finding that the division of manpower and costs for each game bears a reasonable
307 relationship to the division of proceeds, the Commission shall issue a special permit for the joint
308 conduct of all approved games.

309 C. No bingo game shall be jointly conducted until the special permit issued pursuant to subsection B
310 is obtained by the organizations.

311 § 18.2-340.30. Reports of gross receipts and disbursements required; form of reports; failure to file.

312 A. Each qualified organization shall keep a complete record of all receipts from its charitable gaming
313 operation and all disbursements related to such operation. ~~Each~~ *Except as provided in § 18.2-340.23,*
314 *each* qualified organization shall file at least annually, on a form prescribed by the Commission, a report
315 of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming
316 as of the end of the period covered by the report and any other information related to its charitable
317 gaming operation that the Commission may require. In addition, the Commission, by regulation, may
318 require any qualified organization whose receipts exceed a specified amount during any three-month
319 period to file a report of its receipts and disbursements for such period. All reports filed per this section
320 shall be a matter of public record.

321 B. All reports required by this section shall be acknowledged in the presence of a notary public and
322 filed on or before the date prescribed by the Commission.

323 C. The *annual* financial report shall be accompanied by a certificate, verified under oath, by the
324 board of directors or the executive committee, if any, of the organization stating that the proceeds of
325 charitable gaming have been used only for those purposes specified in § 18.2-340.19 and that the
326 operation of the charitable games has been in accordance with the provisions of this article.

327 D. Any qualified organization having annual gross receipts from charitable gaming in excess of
328 \$250,000, as shown on its annual financial report, shall attach to such report an opinion of a licensed
329 independent certified public accountant that in all material respects (i) the annual financial report fairly
330 presents beginning cash, receipts, operating costs, use of proceeds, and ending cash; (ii) the proceeds of
331 all charitable games have been used for those purposes specified in § 18.2-340.19; and (iii) the gross
332 receipts have been used in accordance with the provisions of this article. The opinion required by this
333 subsection shall be in addition to any other opinion that may be required by the Commission.

334 E. ~~Each~~ *Except as provided in § 18.2-340.23,* *each* qualified organization shall designate an
335 individual who shall be responsible for filing an annual and, if required, quarterly financial report if the
336 organization goes out of business or otherwise ceases to conduct charitable gaming activities. The
337 Commission shall require such reports as it deems necessary until all proceeds of any charitable gaming
338 have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner
339 approved by the Commission.

340 F. Each qualified organization shall maintain *for three years* (i) ~~for three years~~ a written record of
341 the dates on which bingo games are played, the number of people in attendance on each date and the
342 amount of the gross receipts and prizes paid on each day; (ii) a record of the name and address of each
343 individual to whom a regular or special bingo game prize or jackpot from the playing of bingo is
344 awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and
345 disbursements, including operating costs and use of proceeds incurred in operating bingo games.

346 G. The failure to file reports when due and, when required, the opinion of a licensed independent
347 certified public accountant in accordance with subsection D, shall cause the automatic revocation of the
348 permit, and no organization shall conduct any bingo game or raffle thereafter until the report or the
349 opinion is properly filed and a new permit is obtained.

350 § 18.2-340.33. Prohibited practices.

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

353 1. No part of the gross receipts derived by a qualified organization may be used for any purpose
354 other than (i) reasonable and proper operating costs, (ii) publicizing the time and date of charitable
355 gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which
356 the organization is specifically chartered or organized, and (v) expenses relating to the acquisition,
357 construction, maintenance, or repair of any interest in the real property involved in the operation of the
358 organization and used for lawful religious, charitable, community or educational purposes.

359 2. No qualified organization shall enter into a contract with, or otherwise employ for compensation
360 any person for the purpose of organizing, managing, or conducting any charitable games. However,
361 organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs
362 associated with providing clerical assistance in the conduct of charitable gaming.

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

365 3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the
366 conduct of any charitable games, any consideration in excess of the ~~current fair market~~ *reasonable*
367 rental value of such property, *as determined by regulations of the Commission.* ~~Fair market~~ *Reasonable*

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, *unless permitted by regulation of the Commission*.

4. 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. However, no building or other premises owned by a qualified organization 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.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least ninety days immediately preceding such participation, has been a bona fide member of the organization; however, 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; or (iii) the spouse of any such bona fide member of a qualified organization provided at least one bona fide member is present.

6. 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 thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations; and

b. Persons under the age of nineteen 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.

7. No 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 subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

- a. No bingo door prize shall exceed \$25;
- b. No regular bingo or special bingo game prize shall exceed \$100;
- c. No instant bingo prize for a single card shall exceed \$500; and
- d. 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.

The provisions of this subdivision shall not apply to any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

10. No organization shall award any raffle prize valued at more than \$100,000, *or in the case of a pull-tab raffle, any prize valued in excess of \$500*.

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified 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 ~~or (ii) pull-tab devices when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.~~

11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the conduct of any charitable games shall conduct such games

429 unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do
430 business in the Commonwealth.

431 12. No person shall participate in the management, operation or conduct of any charitable game if,
432 within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In
433 addition, no person shall participate in the management, operation or conduct of any charitable game if
434 that person, within the preceding five years, has participated in the management, operation, or conduct
435 of any charitable game which was found by the Commission or a court of competent jurisdiction to
436 have been operated in violation of state law, local ordinance or Commission regulation.

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

442 14. A qualified organization shall not purchase any charitable gaming supplies for use in this
443 Commonwealth from any person who is not currently ~~registered with~~ *licensed by* the Commission as a
444 supplier pursuant to § 18.2-340.34.

445 15. *No person under the age of eighteen years shall play bingo or participate in the management,*
446 *operation or conduct of bingo games.*

447 § 18.2-340.34. Suppliers of charitable gaming supplies; licensure; qualification; suspension, revocation
448 or refusal to issue or renew license; maintenance and production of records.

449 A. No person shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified
450 organization unless and until such person has made application for and has been issued a ~~registration~~
451 ~~certificate license~~ by the Commission. An application for ~~registration a license~~ shall be made on forms
452 prescribed by the Commission and shall be accompanied by a fee ~~in the amount of \$500~~ *as determined*
453 *by the Commission*. Each ~~registration certificate license~~ shall remain valid for a period of one year from
454 the ~~renewal date of issuance or for a period as specified by the Commission~~. Application for renewal of
455 a ~~registration certificate license~~ shall be accompanied by a fee ~~in the amount of \$500~~ *as determined by*
456 *the Commission* and shall be made on forms prescribed by the Commission.

457 B. The Commission shall have authority to prescribe by regulation reasonable criteria consistent with
458 the provisions of this article for the ~~registration licensing~~ of suppliers. The Commission may refuse to
459 ~~register license~~ any supplier who has, or which has any officer, director, partner, or owner who has (i)
460 been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been
461 convicted of any offense which, if committed in the Commonwealth, would be a felony; (ii) been
462 convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit,
463 certificate or other authority related to activities defined as charitable gaming in the Commonwealth
464 suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) been delinquent in the
465 filing of any tax returns or the payment of any taxes due the Commonwealth.

466 C. The Commission may suspend, revoke or refuse to ~~issue or renew the registration~~
467 ~~certificate license~~ of any supplier for any conduct described in subsection B or for any violation of this
468 article or regulation of the Commission. Before taking any such action, the Commission shall give the
469 supplier a written statement of the grounds upon which it proposes to take such action and an
470 opportunity to be heard. *Every hearing in a contested case shall be conducted in accordance with the*
471 *Administrative Process Act (§ 9-6.14:1 et seq.).*

472 D. Each supplier shall document each sale of charitable gaming supplies to a qualified organization
473 on an invoice which clearly shows (i) the name and address of the qualified organization to which the
474 supplies were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of
475 instant bingo cards and pull-tab raffle cards, the ~~quality~~ *quantity* of deals sold and the price per deal paid
476 by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the
477 serial number for each series of uncollated bingo paper, and the cut, color and quantity of bingo paper
478 sold; and (v) any other information with respect to items of charitable gaming supplies as the
479 Commission may prescribe by regulation. A legible copy of the invoice shall accompany the charitable
480 gaming supplies when delivered to the qualified organization.

481 E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period
482 of three years from the date of sale. Each supplier shall make such documents immediately available for
483 inspection and copying to any agent or employee of the Commission upon request made during normal
484 business hours. This subsection shall not limit the right of the Commission to require the production of
485 any other documents in the possession of the supplier which relate to its transactions with qualified
486 organizations.

487 § 18.2-340.37. Criminal penalties.

488 A. Any person who *willfully and knowingly files, or causes to be filed, a false application, report or*
489 *other document or who willfully and knowingly makes a false statement, or causes a false statement to*
490 *be made, on any application, report or other document required to be filed with or made to the*

Commission shall be guilty of a Class 6 felony.

B. Except as provided in subsection A, any person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor.

B. C. Each day in violation shall constitute a separate offense.

§ 18.2-340.38. Transitional provisions.

A. In order to implement the statewide regulation of charitable gaming expeditiously, ~~the initial~~ rules and regulations shall be adopted by the Commission but shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first ~~twelve-month~~ *twenty-four-month* period following the earliest effective date of any portion of this article. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act, *provided that such rules and regulations are adopted after a public hearing held by the Commission at least thirty days after providing notice to interested parties of the proposed rules and regulations.*

B. The Commission may issue temporary licenses upon conditions as ~~its~~ *it* deems necessary, subject however to all limitations set forth in this article, for a term which shall not extend beyond one year after the latest effective ~~day~~ *date* of any portion of this article.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken or published in the line of duty under the law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or to any information required for building permits.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a ~~fictitious~~ *fictitious* name.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance Authority, upon written request, the names and home addresses of those persons identified by the Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax

552 information as may be necessary to facilitate the collection of taxes and fees administered by the
553 Commission; ~~and~~ (x) provide to the Executive Director of the Potomac and Rappahannock
554 Transportation Commission for its confidential use such tax information as may be necessary to facilitate
555 the collection of the motor vehicle fuel sales tax; *and (xi) provide to the Executive Secretary of the*
556 *Charitable Gaming Commission such tax information as may be necessary to identify those applicants*
557 *for charitable gaming permits and licenses who have not filed required returns or who owe delinquent*
558 *taxes.* The Tax Commissioner is further authorized to enter into written agreements with duly constituted
559 tax officials of other states and of the United States for the inspection of tax returns, the making of
560 audits, and the exchange of information relating to any tax administered by the Department of Taxation.
561 Any person to whom tax information is divulged pursuant to this section shall be subject to the
562 prohibitions and penalties prescribed herein as though he were a tax official.

563 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
564 commissioner of revenue is authorized to provide, upon written request stating the reason for such
565 request, the chief executive officer of any county or city with information furnished to the commissioner
566 of revenue by the Tax Commissioner relating to the name and address of any dealer located within the
567 county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax
568 revenues payable to the county or city. Any person to whom tax information is divulged pursuant to this
569 section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
570 official.

571 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
572 motor vehicle local license decal the year, make, and model and any other legal identification
573 information about the particular motor vehicle for which that local license decal is assigned.

574 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
575 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
576 written request, the name, address, and social security number of a taxpayer, necessary for the
577 performance of the Commissioner's official duties regarding the administration and enforcement of laws
578 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
579 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
580 Commissioner of the obligations under this section.

581 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
582 any confidential tax document which he knows or has reason to know is a confidential tax document. A
583 confidential tax document is any correspondence, document, or tax return that is prohibited from being
584 divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such
585 confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing
586 disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2
587 misdemeanor.

588 **2. That an emergency exists and the provisions § 18.2-340.38 of this act are in force from its**
589 **passage.**

590 **3. That the provisions of this act may result in a net increase in periods of imprisonment in state**
591 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
592 **is \$125,000.**