

22103188D

**HOUSE BILL NO. 144**

Offered January 12, 2022

Prefiled January 7, 2022

*A BILL to amend and reenact §§ 18.2-340.16, 18.2-340.23, and 18.2-340.26:1 of the Code of Virginia, relating to charitable gaming; definition of organization.*

Patron—Wiley

Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-340.16, 18.2-340.23, and 18.2-340.26:1 of the Code of Virginia are amended and reenacted 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.

"Board" means the Charitable Gaming Board created pursuant to § 2.2-2455.

"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.

"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, but not be limited to, (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.

"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, including Department-approved electronic versions thereof, 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 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 that the organization has designated on its game program as a jackpot game in which the prize amount is greater than \$100.

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

"Management" means the provision of oversight of a gaming operation, which may include, but is not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling,

INTRODUCED

HB144

59 submitting and maintaining required records and financial reports, and ensuring that all aspects of the  
60 operation are in compliance with all applicable statutes and regulations.

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

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

63 "Operation" means the activities associated with production of a charitable gaming activity, which  
64 may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming;  
65 (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the  
66 organization's management.

67 "Organization" means any one of the following:

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

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

76 3. An athletic association or booster club or a band booster club established solely to raise funds for  
77 school-sponsored athletic or band activities for a public school or private school accredited pursuant to  
78 § 22.1-19 or to provide scholarships to students attending such school;

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

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

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

84 7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue  
85 Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

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

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

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

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

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

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

114 14. A local chamber of commerce;

115 15. *An organization that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue*  
116 *Code and is operated, and has always been operated, exclusively to provide scholarships to local*  
117 *schools and other community assistance; or*

118 ~~15.~~ 16. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the  
119 Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or  
120 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 Board regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members shall not qualify as a business expense. 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.

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

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

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

**§ 18.2-340.23. Organizations exempt from certain fees and reports.**

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with Board regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision ~~15~~ 16 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Nothing in this subsection shall be construed as exempting any organizations described in subdivision ~~15~~ 16 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other Board regulations.

C. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, Board regulations.

**§ 18.2-340.26:1. Sale of instant bingo, pull tabs, or seal cards; proceeds not counted as gross receipts.**

182 A. Instant bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined  
183 in § 18.2-340.16, (ii) upon premises that are owned or exclusively and entirely leased by the qualified  
184 organization, and (iii) at such times that the premises in which the instant bingo, pull tabs, or seal cards  
185 are sold is open only to members and their guests via controlled access. No organization, except for an  
186 association of war veterans or auxiliary units thereof organized in the United States or a fraternal  
187 association or corporation operating under the lodge system, may sell instant bingo, pull tabs, or seal  
188 cards (a) at a location outside of the county, city, or town in which the organization's principal office, as  
189 registered with the State Corporation Commission, is located or in an adjoining county, city, or town or  
190 (b) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title  
191 4.1 unless such license is held by the organization. Nothing in this article shall be construed to prohibit  
192 the conduct of games of chance involving the sale of pull tabs, or seal cards, commonly known as last  
193 sale games, conducted in accordance with this section.

194 B. Except as otherwise provided in subdivision ~~45~~ 16 of the definition of "organization" in  
195 § 18.2-340.16, the proceeds from instant bingo, pull tabs, or seal cards shall not be included in  
196 determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively  
197 to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is  
198 no public solicitation or advertisement made regarding such gaming.

199 C. No more than 18 devices that facilitate the play of electronic versions of instant bingo, pull tabs,  
200 or seal cards, commonly referred to as electronic pull tabs, may be used upon the premises owned or  
201 exclusively leased by the organization and at such times as the portion of the premises in which the  
202 instant bingo, pull tabs, or seal cards are sold is open only to members and their guests.