

SENATE BILL NO. 1235

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute--Senator Obenshain)

A BILL to amend and reenact §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.24:1, relating to charitable gaming; exemptions from certain requirements for specified organizations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.23, 18.2-340.26:2, 18.2-340.30, and 18.2-340.36 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.24:1 as follows:

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

A. No organization that reasonably expects, ~~based on the basis of~~ 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 Department 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 organization that reasonably expects, on the basis of prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less from all charitable gaming other than raffles on a total of no more than seven days per calendar year shall be required to register with the Department pursuant to the provisions of § 18.2-340.24:1.

C. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000 as described in subsection A or actual gross receipts from all charitable gaming other than raffles

27 conducted on a total of no more than seven days per calendar year exceed \$40,000 as described in
28 subsection B, the Department shall require the organization to obtain a permit pursuant to the provisions
29 of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30.

30 D. Any (i) organization described in subdivision 15 of the definition of "organization" in § 18.2-
31 340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit
32 thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the
33 political subdivision where the volunteer fire department or volunteer emergency medical services agency
34 is located as being part of the safety program of such political subdivision shall be exempt from the
35 payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-
36 340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be
37 subject to such application fees and audit fees for its electronic gaming activities; however, in accordance
38 with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic
39 gaming manufacturer whose electronic gaming devices are present on the premises of the organization,
40 department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations
41 described in subdivision 15 of the definition of "organization" in § 18.2-340.16, volunteer fire
42 departments, or volunteer emergency medical services agencies from any other provisions of this article
43 or other Department regulations.

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

47 **§ 18.2-340.24:1. Registration requirements; certain organizations.**

48 A. Any organization seeking to conduct charitable gaming in accordance with subsection B of §
49 18.2-340.23 shall first register with the Department on a form prescribed by the Department. The
50 Department shall only require the organization to provide (i) proof of the organization's nonprofit status;
51 (ii) contact information for the chief executive officer of the organization or his designee; (iii) the location,
52 dates, and times of any expected charitable gaming activity; (iv) a description of the general nature of the
53 anticipated charitable gaming activity; and (v) a signed attestation that the organization (a) does not

54 reasonably expect to realize more than \$40,000 in gross receipts on a total of no more than seven days per
55 calendar year for the charitable gaming activities listed on the registration form, (b) understands that
56 should the organization exceed the \$40,000 threshold, it will be required to file the report in accordance
57 with § 18.2-340.30, and (c) understands it shall be required to comply with the provisions of this article
58 and Department regulations.

59 B. Any organization that registers with the Department pursuant to this section is subject to random
60 audits of its charitable gaming activities by the Department and is subject to the penalties specified in §§
61 18.2-340.36 and 18.2-340.37 for gross violations of this article.

62 C. The Department may deny, suspend, or revoke the registration of any organization found not to
63 be in compliance with the provisions of this article and Department regulations. The action of the
64 Department in denying, suspending, or revoking any registration shall be subject to the Administrative
65 Process Act (§ 2.2-4000 et seq.).

66 D. Any person aggrieved by the denial, suspension, or revocation of a registration or any other
67 action of the Department may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.)
68 of the Administrative Process Act.

69 **§ 18.2-340.26:2. Sale of instant bingo, pull tabs, or seal cards dispensed by mechanical**
70 **equipment.**

71 As a part of its annual ~~fund-raising~~ fundraising event, any qualified organization ~~that is an athletic~~
72 association or booster club or a band booster club may sell instant bingo, pull tabs, or seal cards, provided
73 that (i) any such instant bingo, pull tabs, or seal cards are dispensed by mechanical equipment only; (ii)
74 the sale of the same is limited to a single event ~~in a~~ of no more than seven days per calendar year ~~and (ii)~~
75 the; (iii) any such event is open to the public; and (iv) no such organization realizes actual gross receipts
76 of more than \$40,000 from the conduct of all charitable gaming other than raffles on a total of no more
77 than seven days per calendar year. Notwithstanding the provisions of § 18.2-340.28, an organization
78 authorized under this section shall not be required to sell such instant bingo, pull tabs, or seal cards at such
79 times designated in the permit for regular bingo games or at a location at which the organization is
80 authorized to conduct regular bingo games pursuant to subsections E and F of § 18.2-340.27. If any

81 organization's actual gross receipts from the sale of instant bingo, pull tabs, or seal cards pursuant to this
82 section exceed \$40,000, the Department shall require the organization to obtain a permit pursuant to the
83 provisions of § 18.2-340.25 and file by a specified date the report required by § 18.2-340.30. The
84 Department may require organizations authorized under this section to make such financial reporting as it
85 deems necessary.

86 Nothing in this section shall be construed as exempting organizations authorized to sell instant
87 bingo, pull tabs, or seal cards under this section from any other provisions of this article or other
88 Department regulations.

89 **§ 18.2-340.30. Reports of gross receipts, electronic gaming adjusted gross receipts, and**
90 **disbursements required; form of reports; failure to file.**

- 91 A. 1. Each qualified organization shall keep a complete record of all:
- 92 a. Inventory of charitable gaming supplies purchased.
 - 93 b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to
94 each type of game offered.
 - 95 c. Electronic gaming adjusted gross receipts.
 - 96 d. Disbursements related to charitable gaming and electronic gaming operations, including a
97 breakdown of disbursements for each purpose specified in subdivision 1 of § 18.2-340.33.

98 2. Except as provided in §§ 18.2-340.23 and 18.2-340.30:2, each qualified organization shall file
99 under penalty of perjury and at least annually, on a form prescribed by the Department, a report of all
100 receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to
101 charitable gaming as of the end of the period covered by the report, and any other information related to
102 its charitable gaming operation that the Department may require. In addition, the Commissioner, by
103 regulation, may require any qualified organization, except any qualified organization that realizes annual
104 gross receipts of \$40,000 or less, whose net receipts exceed a specified amount during any three-month
105 period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this
106 section shall be a matter of public record.

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

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

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

122 E. The failure to file reports within 30 days of the time such reports are due shall cause the
123 automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter
124 until the report is properly filed and a new permit is obtained. However, the Department may grant an
125 extension of time for filing such reports for a period not to exceed 45 days if requested by an organization,
126 provided the organization requests an extension within 15 days of the time such reports are due and all
127 projected fees are paid. For the term of any such extension, the organization's permit shall not be
128 automatically revoked, such organization may continue to conduct charitable gaming, or electronic
129 gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

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

132 **§ 18.2-340.36. Suspension of permit and registration.**

133 A. When any officer charged with the enforcement of the charitable gaming laws of the
134 Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted
135 by an organization in violation of this article or Department regulations, he may apply to any judge,
136 magistrate, or other person having authority to issue criminal warrants for the immediate suspension of
137 the permit or registration of the organization conducting ~~the bingo game or raffle~~ charitable gaming. If the
138 judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists
139 to suspend the permit or registration, he shall suspend the permit or registration. Immediately upon such
140 suspension, the officer shall notify the organization in writing of such suspension.

141 B. Written notice specifying the particular basis for the immediate suspension shall be provided
142 by the officer to the organization within one business day of the suspension and a hearing held thereon by
143 the Department or its designated hearing officer within 10 days of the suspension unless the organization
144 consents to a later date. No charitable gaming shall be conducted by the organization until the suspension
145 has been lifted by the Department or a court of competent jurisdiction.

146 #