

SENATE BILL NO. 1527

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 2, 2023)

(Patron Prior to Substitute--Senator Rouse)

A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.23 of the Code of Virginia, relating to charitable gaming; definitions; organization; social organization.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16 and 18.2-340.23 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.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this article. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

26 "Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers,
27 instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and
28 any other equipment or product manufactured for or intended to be used in the conduct of charitable
29 games. However, for the purposes of this article, charitable gaming supplies shall not include items
30 incidental to the conduct of charitable gaming such as markers, wands, or tape.

31 "Commissioner" means the Commissioner of the Department of Agriculture and Consumer
32 Services.

33 "Conduct" means the actions associated with the provision of a gaming operation during and
34 immediately before or after the permitted activity, which may include (i) selling bingo cards or packs,
35 electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii)
36 distributing prizes, and (iv) any other services provided by volunteer workers.

37 "Department" means the Department of Agriculture and Consumer Services.

38 "Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming
39 that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the
40 game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

41 "Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic
42 gaming less the total amount in prize money paid out to players.

43 "Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct
44 electronic gaming.

45 "Fair market rental value" means the rent that a rental property will bring when offered for lease
46 by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no
47 necessity of leasing.

48 "Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and
49 administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such other
50 reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

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

53 "Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random
54 selection of one or more individually prepacked cards with winners being determined by the preprinted or
55 predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the player
56 to determine wins and losses and may include the use of a seal card that conceals one or more numbers or
57 symbols that have been designated in advance as prize winners. Such cards may be dispensed by
58 mechanical equipment.

59 "Jackpot" means a bingo game that the organization has designated on its game program as a
60 jackpot game in which the prize amount is greater than \$100.

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

65 "Management" means the provision of oversight of a gaming operation, which may include the
66 responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and
67 maintaining required records and financial reports, and ensuring that all aspects of the operation are in
68 compliance with all applicable statutes and regulations.

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

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

71 "Operation" means the activities associated with production of a charitable gaming or electronic
72 gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming
73 and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming
74 and electronic gaming designated by the organization's management.

75 "Organization" means any one of the following:

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

- 80 2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
81 Code, is operated, and has always been operated, exclusively for educational purposes, and awards
82 scholarships to accredited public institutions of higher education or other postsecondary schools licensed
83 or certified by the Board of Education or the State Council of Higher Education for Virginia;
- 84 3. An athletic association or booster club or a band booster club established solely to raise funds
85 for school-sponsored athletic or band activities for a public school or private school accredited pursuant
86 to § 22.1-19 or to provide scholarships to students attending such school;
- 87 4. An association of war veterans or auxiliary units thereof organized in the United States;
- 88 5. A fraternal association or corporation operating under the lodge system;
- 89 6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
90 Code and is operated, and has always been operated, exclusively to provide services and other resources
91 to older Virginians, as defined in § 51.5-116;
- 92 7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
93 Code and is operated, and has always been operated, exclusively to foster youth amateur sports;
- 94 8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
95 Code and is operated, and has always been operated, exclusively to provide health care services or conduct
96 medical research;
- 97 9. An accredited public institution of higher education or other postsecondary school licensed or
98 certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt
99 from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;
- 100 10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of
101 the Internal Revenue Code;
- 102 11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the
103 Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster
104 a spirit of understanding among the people of the world; (ii) promote the principles of good government
105 and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the
106 community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage

107 individuals to serve the community without personal financial reward; and (vi) encourage efficiency and
108 promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

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

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

120 14. An organization (i) established on or before December 31, 1963, as a result of its members
121 being prohibited from joining similar existing organizations because of laws such as the Public
122 Assemblages Act of 1926, which required the racial segregation of all public events in the Commonwealth;
123 (ii) that is exempt from income tax pursuant to § 501(c)(7) of the Internal Revenue Code; and (iii) that is
124 operated, and has always been operated, for community awareness and action through educational,
125 economic, and cultural service activities;

126 15. An organization established on or before December 31, 1977, that is exempt from income tax
127 pursuant to § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for
128 donation to organizations whose missions include promoting early detection of and public education about
129 and supporting research and treatment options for heart disease and various cancers;

130 16. A local chamber of commerce; or

131 ~~15-~~17. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of
132 the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or
133 seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less

134 expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes.
135 Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included
136 when calculating an organization's annual gross receipts for the purposes of this subdivision.

137 "Pari-mutuel play" means an integrated network operated by a licensee of the Department
138 comprised of participating charitable organizations for the conduct of network bingo games in which the
139 purchase of a network bingo card by a player automatically includes the player in a pool with all other
140 players in the network, and where the prize to the winning player is awarded based on a percentage of the
141 total amount of network bingo cards sold in a particular network.

142 "Qualified organization" means any organization to which a valid permit has been issued by the
143 Department to conduct charitable gaming or any organization that is exempt pursuant to § 18.2-340.23.

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

148 "Reasonable and proper business expenses" means business expenses actually incurred by a
149 qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or
150 under Department regulations on real estate and personal property tax payments, travel expenses,
151 payments of utilities and trash collection services, legal and accounting fees, costs of business furniture,
152 fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an
153 organization's real property. For the purpose of this definition, salaries and wages of employees whose
154 primary responsibility is to provide services for the principal benefit of an organization's members may
155 qualify as a business expense, if so determined by the Department. However, payments made pursuant to
156 § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be
157 deemed a reasonable and proper business expense.

158 "Social organization" means any qualified organization that provides certification to the
159 Department that it is:

160 1. An accredited public institution of higher education or other postsecondary school licensed or
161 certified by the Board of Education or the State Council of Higher Education for Virginia qualified under
162 § 501(c)(3) of the Internal Revenue Code;

163 2. An organization established on or before December 31, 1963, as a result of its members being
164 prohibited from joining similar existing organizations because of laws such as the Public Assemblages
165 Act of 1926, which required the racial segregation of all public events in the Commonwealth, that is
166 qualified under § 501(c)(7) of the Internal Revenue Code;

167 3. An organization established on or before December 31, 1977, that is qualified under § 501(c)(7)
168 of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations
169 whose missions include promoting early detection of and public education about and supporting research
170 and treatment options for heart disease and various cancers;

171 4. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal
172 Revenue Code;

173 ~~3-5.~~ A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal
174 Revenue Code; or

175 ~~4-6.~~ A post or organization of past or present members of the Armed Forces of the United States,
176 or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under
177 § 501(c)(19) of the Internal Revenue Code.

178 "Social quarters" means, in addition to any specifications prescribed by the Department, an area at
179 a social organization's primary location that (i) such organization designates to be used predominantly by
180 its members for social and recreational activities, (ii) is accessible exclusively to members of the social
181 organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify
182 the area from being considered social quarters if guests occasionally accompany members into the area,
183 so long as such guests do not spend their own funds to participate in charitable gaming or electronic
184 gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-
185 340.26:3, the Department may rely on publications of the Internal Revenue Service regarding the

186 allowable participation of guests in an organization's social and recreational activities for purposes of §
187 501 of the Internal Revenue Code.

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

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

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

202 **§ 18.2-340.23. Organizations exempt from certain fees and reports.**

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

209 B. Any (i) organization described in subdivision ~~15.17~~ 17 of the definition of "organization" in § 18.2-
210 340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit
211 thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the
212 political subdivision where the volunteer fire department or volunteer emergency medical services agency

213 is located as being part of the safety program of such political subdivision shall be exempt from the
214 payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-
215 340.31. Any such organization, department, agency, or unit that conducts electronic gaming shall be
216 subject to such application fees and audit fees for its electronic gaming activities; however, in accordance
217 with the provisions of § 18.2-340.31, any audit fees may be paid by either the organization or the electronic
218 gaming manufacturer whose electronic gaming devices are present on the premises of the organization,
219 department, agency, or unit. Nothing in this subsection shall be construed as exempting any organizations
220 described in subdivision ~~15~~ 17 of the definition of "organization" in § 18.2-340.16, volunteer fire
221 departments, or volunteer emergency medical services agencies from any other provisions of this article
222 or other Department regulations.

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

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