

HOUSE BILL NO. 523

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Krizek)

A BILL to amend and reenact §§ 18.2-340.16, 18.2-340.19, and 18.2-340.31 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.31:1, relating to charitable gaming.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.16, 18.2-340.19, and 18.2-340.31 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.31:1 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.

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

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

33 "Commissioner" means the Commissioner of the Department of Agriculture and Consumer
34 Services.

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

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

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

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

45 "Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct
46 electronic gaming.

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

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

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

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

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

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

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

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

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

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

77 "Organization" means any one of the following:

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

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

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

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

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

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

94 7. 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 foster youth amateur sports;

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

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

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

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

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

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

122 14. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
123 Code that manages a museum that is operated, and has always been operated, exclusively for the purposes
124 of musical heritage and the legacy of the "1927 Bristol Sessions";

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

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

135 17. A local chamber of commerce; or

136 18. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the
137 Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal
138 cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less
139 expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes.
140 Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included
141 when calculating an organization's annual gross receipts for the purposes of this subdivision.

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

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

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

153 "Reasonable and proper business expenses" means business expenses actually incurred by a
154 qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or
155 under Department regulations on real estate and personal property tax payments, travel expenses,
156 payments of utilities and trash collection services, legal and accounting fees, costs of business furniture,
157 fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an

158 organization's real property. For the purpose of this definition, (i) salaries and wages of employees whose
159 primary responsibility is to provide services for the principal benefit of an organization's members or (ii)
160 expenses for social or recreational activities for the principal benefit of a social organization's members
161 may qualify as a business expense, if so determined by the Department. However, payments made
162 pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund
163 shall be deemed a reasonable and proper business expense.

164 "Social organization" means any qualified organization that provides certification to the
165 Department that it is:

166 1. An accredited public institution of higher education or other postsecondary school licensed or
167 certified by the Board of Education or the State Council of Higher Education for Virginia qualified under
168 § 501(c)(3) of the Internal Revenue Code;

169 2. An organization established on or before November 10, 1922, that is qualified under § 501(c)(4)
170 of the Internal Revenue Code, is the only federally chartered Marine Corps-related veterans organization
171 in the country, and is operated for the purpose of promoting the interest and preserving the traditions of
172 the United States Marine Corps;

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

177 ~~3-4.~~ An organization established on or before December 31, 1977, that is qualified under §
178 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to
179 organizations whose missions include promoting early detection of and public education about and
180 supporting research and treatment options for heart disease and various cancers;

181 ~~4-5.~~ A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal
182 Revenue Code;

183 ~~5-6.~~ A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal
184 Revenue Code; or

185 ~~6-7.~~ A post or organization of past or present members of the Armed Forces of the United States,
186 or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under
187 § 501(c)(19) of the Internal Revenue Code.

188 "Social quarters" means, in addition to any specifications prescribed by the Department, an area at
189 a social organization's primary location that (i) such organization designates to be used predominantly by
190 its members for social and recreational activities, (ii) is accessible exclusively to members of the social
191 organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify
192 the area from being considered social quarters if guests occasionally accompany members into the area,
193 so long as such guests do not spend their own funds to participate in charitable gaming or electronic
194 gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 18.2-
195 340.26:3, the Department may rely on publications of the Internal Revenue Service regarding the
196 allowable participation of guests in an organization's social and recreational activities for purposes of §
197 501 of the Internal Revenue Code.

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

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

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

212 § 18.2-340.19. Regulations of the Department.

213 A. The Department shall adopt regulations that:

214 1. Require, as a condition of receiving a charitable gaming permit or authorization to conduct
215 electronic gaming, that the applicant use a predetermined percentage of its receipts for ~~(i)~~ those lawful
216 religious, charitable, community, or educational purposes for which the organization is specifically
217 chartered or organized ~~or (ii)~~, including (i) those expenses relating to the acquisition, construction,
218 maintenance, or repair of any interest in real property or (ii) expenses related to the rental of real property
219 by an organization as described by subdivision 5, 6, or 7 of the definition of "social organization" in §
220 18.2-340.16 where such real property is involved in the operation of the organization and used for lawful
221 religious, charitable, community, or educational purposes, as follows:

222 a. With respect to charitable gaming, other than electronic gaming, a predetermined percentage of
223 its gross receipts.

224 b. With respect to electronic gaming, a predetermined percentage of its electronic gaming adjusted
225 gross receipts.

226 2. Specify the conditions under which a complete list of the organization's members who
227 participate in the management, operation, or conduct of charitable gaming may be required in order for
228 the Department to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of §
229 18.2-340.24.

230 Membership lists furnished to the Department in accordance with this subdivision shall not be a
231 matter of public record and shall be exempt from disclosure under the provisions of the Freedom of
232 Information Act (§ 2.2-3700 et seq.).

233 3. Prescribe fees for processing applications for charitable gaming permits and authorizing social
234 organizations to conduct electronic gaming. Such fees may reflect the nature and extent of the charitable
235 gaming activity proposed to be conducted.

236 4. Establish requirements for the audit of all reports required in accordance with §§ 18.2-340.30
237 and 18.2-340.30:2.

238 5. Define electronic and mechanical equipment used in the conduct of charitable gaming.
239 Department regulations shall include capacity for such equipment to provide full automatic daubing as
240 numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant
241 bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull
242 tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic
243 cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a
244 slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or
245 more reels marked into horizontal segments by varying symbols, where the predetermined prize amount
246 depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other
247 similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely
248 intended to entice players to play. Such regulations shall not prohibit (a) devices that display spinning,
249 rotating, or rolling reels or animations or flashing lights; (b) devices that accept vouchers; (c) the purchase
250 and play of an electronic pull tab with a single press or touch of a button; or (d) the use of multiple video
251 monitors or touchscreens on an electronic gaming device.

252 6. Prescribe the conditions under which a qualified organization may (i) provide food and
253 nonalcoholic beverages to its members who participate in the management, operation, or conduct of bingo;
254 (ii) permit members who participate in the management, operation, or conduct of bingo to play bingo; and
255 (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the
256 conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of
257 the organization during the bingo game.

258 7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle
259 drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

260 8. Prescribe the conditions under which persons who are bona fide members of a qualified
261 organization or a child, above the age of 13 years, of a bona fide member of such organization may
262 participate in the conduct or operation of bingo games.

263 9. Prescribe the conditions under which a person below the age of 18 years may play bingo,
264 provided that such person is accompanied by his parent or legal guardian.

265 10. Require all qualified organizations that are subject to Department regulations to post in a
266 conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free
267 telephone number for "Gamblers Anonymous" or other organization which provides assistance to
268 compulsive gamblers.

269 11. Prescribe the conditions under which a qualified organization may sell network bingo cards in
270 accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales
271 to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network
272 bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution
273 of any unclaimed prize.

274 12. Prescribe the conditions under which a qualified organization may manage, operate, or contract
275 with operators of, or conduct Texas Hold'em poker tournaments.

276 13. Prescribe the conditions under which a qualified organization may lease the premises of a
277 permitted social organization for the purpose of conducting bingo, network bingo, instant bingo, pull tabs,
278 seal cards, and electronic gaming permitted under this article and establish requirements for proper
279 financial reporting of all disbursements, gross receipts, and electronic gaming adjusted gross receipts and
280 payment of all fees required under this article.

281 B. The Commissioner may, by regulation, approve variations to the card formats for bingo games,
282 provided that such variations result in bingo games that are conducted in a manner consistent with the
283 provisions of this article. Department-approved variations may include bingo games commonly referred
284 to as player selection games and 90-number bingo.

285 **§ 18.2-340.31. Audit of reports; exemption; audit and administration fee; additional**
286 **assessment of gross receipts and electronic gaming adjusted gross receipts.**

287 A. All reports filed pursuant to §§ 18.2-340.30 and 18.2-340.30:2 shall be subject to audit by the
288 Department in accordance with Department regulations. The Department may engage the services of
289 independent certified public accountants to perform any audits deemed necessary to fulfill the
290 Department's responsibilities under this article.

291 B. The Department shall prescribe a reasonable audit and administration fee to be paid by (i) any
292 organization conducting charitable gaming under a permit issued by the Department unless the
293 organization is exempt from such fee pursuant to § 18.2-340.23 or (ii) any electronic gaming manufacturer
294 that holds a permit issued by the Department pursuant to § 18.2-340.34. Such fee shall not exceed ~~one-~~
295 ~~half~~ one-quarter of one percent of the gross receipts that an organization reports pursuant to § 18.2-340.30
296 or ~~one-half~~ one-quarter of one percent of the electronic gaming adjusted gross receipts that an electronic
297 gaming manufacturer reports pursuant to § 18.2-340.30:2. The audit and administration fee shall
298 accompany each report for each calendar quarter.

299 C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees
300 received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the
301 Department for the purposes of auditing and regulating charitable gaming.

302 D. In addition to the fee imposed under subsection B, an additional fee of (i) one-quarter of one
303 percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 shall be paid by the
304 organization or (ii) one-quarter of one percent of the electronic gaming adjusted gross receipts that an
305 electronic gaming manufacturer reports pursuant to § 18.2-340.30:2 shall be paid by the electronic gaming
306 manufacturer to the Treasurer of Virginia. All such amounts shall be collected and deposited in the same
307 manner as prescribed in subsections B and C and shall be used for the same purposes.

308 **§ 18.2-340.31:1. Additional fees; problem gambling treatment and support efforts.**

309 A. The Department shall require an additional fee to be paid by qualified organizations and
310 electronic gaming manufacturers for the purpose of supporting problem gambling treatment and support
311 efforts in the Commonwealth. Any organization conducting charitable gaming under a permit issued by
312 the Department shall pay a fee of one-quarter of one percent of the gross receipts that such organization
313 reports pursuant to § 18.2-340.30, and any electronic gaming manufacturer that holds a permit issued by
314 the Department pursuant to § 18.2-340.34 shall pay a fee of one-quarter of one percent of the adjusted
315 gross receipts that such manufacturer reports pursuant to § 18.2-340.30:2. The fee shall accompany each
316 report for each calendar quarter.

317 B. All such fees received by the Department in accordance with subsection A shall be deposited
318 in the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2.

319 **2. That, by December 1, 2024, the Department of Agriculture and Consumer Services (the**
320 **Department) shall promulgate regulations prohibiting qualified social organizations from**
321 **conducting electronic gaming in a separately demised premises that has a direct or indirect means**
322 **of ingress to or egress from any adjacent space unless such space is used exclusively by members or**
323 **guests of such qualified organization. The Department's initial adoption of regulations necessary to**
324 **implement the provisions of this enactment shall be exempt from the Administrative Process Act (§**
325 **2.2-4000 et seq. of the Code of Virginia), except that the Department shall provide an opportunity**
326 **for public comment on such regulations prior to adoption.**

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