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SENATE BILL NO. 344

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 15, 2024)

(Patron Prior to Substitute—Senator Reeves)

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.

"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.

"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 (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.

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

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

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

"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 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 that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by mechanical equipment.

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

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

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

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

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

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

76 "Organization" means any one of the following:

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

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

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

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

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

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

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

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

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

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

103 11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the
104 Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and
105 foster a spirit of understanding among the people of the world; (ii) promote the principles of good
106 government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare
107 of the community; (iv) provide a forum for the open discussion of matters of public interest; (v)
108 encourage individuals to serve the community without personal financial reward; and (vi) encourage
109 efficiency and promote high ethical standards in commerce, industries, professions, public works, and
110 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
113 law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement
114 Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that
115 are exempt from 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
119 science and technology to advance the conservation of the environment, caves, or other natural
120 resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources
121 or provide grant opportunities to other nonprofit organizations that are devoted to such conservation

122 efforts;

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

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

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

136 17. A local chamber of commerce; or

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

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

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

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

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

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

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

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

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

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

182 4. 5. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal

183 Revenue Code;

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

186 ~~6-~~ 7. A post or organization of past or present members of the Armed Forces of the United States, or
187 an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under
188 § 501(c)(19) of the Internal Revenue Code.

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

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

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

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

213 **§ 18.2-340.19. Regulations of the Department.**

214 A. The Department shall adopt regulations that:

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

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

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

227 2. Specify the conditions under which a complete list of the organization's members who participate
228 in the management, operation, or conduct of charitable gaming may be required in order for the
229 Department to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of
230 § 18.2-340.24.

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

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

237 4. Establish requirements for the audit of all reports required in accordance with §§ 18.2-340.30 and
238 18.2-340.30:2.

239 5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Department
240 regulations shall include capacity for such equipment to provide full automatic daubing as numbers are
241 called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull
242 tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or
243 seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards,
244 or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot

245 and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more
 246 reels marked into horizontal segments by varying symbols, where the predetermined prize amount
 247 depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other
 248 similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely
 249 intended to entice players to play. Such regulations shall not prohibit (a) *devices that display spinning,*
 250 *rotating, or rolling reels or animations or flashing lights;* (b) *devices that accept vouchers;* (c) *the*
 251 *purchase and play of an electronic pull tab with a single press or touch of a button;* or (d) the use of
 252 multiple video monitors or touchscreens on an electronic gaming device.

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

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

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

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

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

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

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

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

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

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

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

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

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

303 D. In addition to the fee imposed under subsection B, an additional fee of (i) one-quarter of one
 304 percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 shall be paid by the
 305 organization or (ii) one-quarter of one percent of the electronic gaming adjusted gross receipts that an

306 electronic gaming manufacturer reports pursuant to § 18.2-340.30:2 shall be paid by the electronic
307 gaming manufacturer to the Treasurer of Virginia. All such amounts shall be collected and deposited in
308 the same manner as prescribed in subsections B and C and shall be used for the same purposes.

309 **§ 18.2-340.31:1. Additional fees; problem gambling treatment and support efforts.**

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

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