



Final Regulation Agency Background Document

Agency name	Department of Charitable Gaming
Virginia Administrative Code (VAC) citation	11 VAC15-31
Regulation title	Supplier Regulations
Action title	Changes to incorporate recent amendments to the Code of Virginia and update related provisions related to distribution of gaming supplies to qualified charitable organizations.
Document preparation date	September 29, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The primary focus of the amendments is to reflect numerous relevant changes that have occurred in the Code of Virginia since the current regulations became effective (January 1, 1998). Other substantive changes requirements that a supplier must be authorized to conduct business in Virginia, must notify the Department within 20 days of any regulatory or legal actions taken in any other jurisdiction, and must be in compliance with applicable federal laws. Other changes simplify and clarify the regulations while also complying with proposed changes to the Charitable Gaming Rules and Regulations (11 VAC 15-22).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On September 13, 2005, after thorough review of all written public comments on the proposed regulations, in addition to verbal comments received at both their June 7, 2005 and September 13, 2005

meetings, the Charitable Gaming Board voted unanimously to adopt the Charitable Gaming Rules and Regulations as final.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 18.2-340.15, *et seq.*, Code of Virginia provides that the Department is vested with control of all charitable gaming in the Commonwealth and that the Board shall have the power to prescribe regulations and conditions under which such gaming is authorized. Acts 2003, c.884, cl. 5 provides: "That the Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations and provide a report to the Governor and the 2004 session of the General Assembly. The report shall include the Board's plans regarding regulatory action on these issues, and anticipated timetable for such action."

The required report, which was submitted on December 2, 2003, concluded: "The Board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Regulations is needed..." The Board reported an anticipated timetable for the process to amend the regulations as approximately 18 months to complete, occurring between June 2004 and January 2006.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The 2003 General Assembly (Chapter 884, 2003 Acts of Assembly) created the Department of Charitable Gaming (the Department) and the Charitable Gaming Board (the Board) to replace the former Charitable Gaming Commission (the Commission). The current Supplier Regulations were adopted by the former Commission and became effective January 1, 1998. They include many references to the Commission, which no longer exists, as well as other statutes that have since been amended. The goal of the amended regulations is to simplify and clarify the regulations while also making them consistent with current statutes.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The regulations contain 42 references to the former Charitable Gaming Commission that are proposed to now be changed to the Department of Charitable Gaming or Charitable Gaming Board where appropriate and consistent with the statute. Several definitions are proposed to be updated and clarified. The regulations have also been amended where necessary to be consistent with the Proposed Charitable

Gaming Rules and Regulations (11 VAC 15-22). The Charitable Gaming fiscal year is proposed to be changed from the current fiscal year of October 1 to September 30 to now be consistent with the calendar year.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) The primary advantage to the public is that through consistent and effective regulation, the public will be able to participate in bingo, instant bingo and raffles that provide funding for charitable organizations while ensuring the highest level of integrity is maintained. This will protect the public from fraud while increasing the funding for charity. Clarified regulations should also benefit those businesses that are registered with the Department as required by law by making it easier to understand and comply with the regulations. There are no disadvantages to the public or the businesses in the proposed regulations.
- 2) The primary advantage to the Commonwealth is that the Department will be more efficient in audit and control of permitted gaming activities and better able to detect and prosecute fraud, theft and other irregularities. There are no disadvantages to the Commonwealth in the proposed regulations.
- 3) The regulated community should benefit from regulations that are clearer and more concise, and therefore more easily complied with. The regulated community may see some additional record keeping and reporting requirements that are necessary to maintain integrity in the delivery of supplies to gaming operations.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
20.H	Name and address of each organization required to be reported	Information to include DCG number	This is a requirement in existing regulations but was overlooked in the proposed stage rewriting of the regulations. The DCG number is on all permits and is the unique identifier in all DCG records
30.B	Establishes information required on break open pull-tubs and banded pull-tabs	Clarified distinction between break open and banded pull tabs	Technical adjustment, consistent with current practice, recommended by public comment

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Mary Magnuson	Technical adjustment to Section 30.B	Adopted by Board in final regulation
Paul Munden	Concerned that moving fiscal year to coincide with calendar year will cause organizations difficulty in matching to fiscal year reporting for IRS requirements	The agency has discussed this issue on several occasions with the IRS. IRS regulations allow non-profit organizations liberty to determine what reporting period to use, as long as it does not go beyond 12 months. According to the IRS, an organization can adjust its reporting period by simply completing a one page form and attaching it to their annual Form 990 tax return.

Enter any other statement here

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
15-31-10		Definitions	Clarified and added new definitions consistent with statutes. Makes definitions consistent with Proposed Charitable Gaming Regulations (11 VAC 15-22)
15-31-20		Sets qualifications for supplier registration and requirements for background checks and reporting of sales.	Adds to the qualification requirements that the entity is authorized to conduct business in Virginia. Allows for denial or revocation of certificate if a supplier or his employee is convicted of certain offenses, fails to report regulatory or legal action taken in another jurisdiction or fails to comply with federal laws. Clarifies exceptions to limitation on distribution of gaming supplies and make them consistent with current law. Further limits suppliers' involvement in gaming. Requires out-of-state criminal records checks for suppliers not domiciled in Virginia. Clarifies what transactions must be reported

			to the Department on an annual basis. Clarifies standards for testing of electronic devices. Changes the reporting period to be consistent with the calendar year.
15-31-30		Establishes standards for construction and randomization	Adjust requirements based on current law and industry standards. Reduces the number of cards faces on electronic bingo machines from 72 to 54, as was recommended by a focus group of suppliers.
15-31-40		Instant bingo and pull-tabs	No changes
15-31-50		Fact Finding Conferences	Technical adjustments per statutory changes
15-31-60		Reporting Violations	Technical adjustments per statutory changes

Enter any other statement here

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

It is projected that the proposed regulations will have no impact of the institution of the family and family stability.