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Proposed Regulation Agency Background Document

Agency name	Charitable Gaming Board
Virginia Administrative Code (VAC) citation(s)	11 VAC 15-40
Regulation title(s)	Charitable Gaming Regulations
Action title	Amendments to revise the limits on the number of electronic pull-tab devices that may be operated by qualified charitable organizations at various qualified sites
Date this document prepared	June 21, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Code of Virginia authorizes the Charitable Gaming Board (Board) to adopt regulations governing the charitable gaming statute. The Charitable Gaming Regulations currently include provisions prescribing the number of stand-alone electronic pull-tab devices and handheld electronic pull-tab devices that may be used at qualifying sites. The proposed regulatory action seeks to examine the limit on the number of electronic pull-tab devices that may be used at various qualified sites, with the goal of increasing the number of devices allowed. These sites include (i) premises at which charitable gaming is conducted and (ii) private social quarters. Premises at which charitable gaming is conducted are open to the public during charitable

gaming sessions. Private social quarters also conduct charitable gaming and are operated by qualified charitable organizations, but entrance to these premises is limited to members of the organization operating the social quarters and their guests.

The type of premises determines the number of electronic pull-tab devices that may be present at the premises. Limits on the number of permitted devices are prescribed in 11 VAC 15-40-300. Currently, the regulation allows a maximum of 10 stand-alone electronic pull-tab devices and 50 handheld electronic pull-tab devices in premises where bingo sessions are conducted, while private social quarters are limited to a total of five electronic pull-tab devices, regardless of device type. These limits were based on an agreement reached between stakeholders during the drafting the regulation, which became effective in 2012.

This proposed regulatory action was initiated in response to a petition for rulemaking from a licensed manufacturer of electronic pull-tab systems requesting an increase in the number of electronic pull-tab devices allowed in private social quarters. The proposed regulatory action increases the number of electronic pull-tab devices used in private social quarters from the currently allowed five devices to nine devices.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

"Board" means the Charitable Gaming Board.

"Charitable gaming statute" means Article 1.1:1 of Chapter 8 of Title 18.2 of the Code of Virginia.

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

"Electronic pull-tabs" means an electronic version of a single instant bingo card or pull-tab. An electronic pull-tab is a predetermined game outcome in electronic form, distributed on-demand from a finite number of game outcomes by a distributed pull-tab system.

"Electronic pull-tab device" means an electronic unit used to facilitate the play of an electronic pull-tab. An electronic pull-tab device may take the form of an upright cabinet or a handheld device or may be of any other composition as approved by the department.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Section 2.2-2455 of the Code of Virginia establishes the Charitable Gaming Board as a policy board. Section 18.2-340.15 of the Code of Virginia authorizes the Board to prescribe regulations and conditions under which charitable gaming is to be conducted in Virginia.

On June 14, 2016, the Board adopted proposed amendments to 11 VAC 15-40, Charitable Gaming Regulations, and authorized staff to initiate the proposed stage of the regulatory process to amend this regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.

This proposed regulatory action will increase the number of electronic pull-tab devices that may be used at private social quarters. Increasing device limits will provide an opportunity for participating charitable organizations to increase revenue. Many of these non-profits use these revenues to support numerous community programs that often benefit and promote the welfare of the citizens of the Commonwealth. The Board seeks to increase the number of electronic pull-tab devices used in private social quarters from the currently allowed five devices to nine devices. The department does not anticipate any potential issues that may need to be addressed as this regulation is developed.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

This regulatory action consists of one amendment to 11 VAC 15-40, Charitable Gaming Regulations. The amendment is substantive and increases the number of electronic pull-tab devices that qualifying charitable organizations may operate in private social quarters from five devices to nine devices.

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.

The decision to increase the permissible number of electronic pull-tab devices from five devices to nine devices is the result of a petition for rulemaking submitted by a manufacturer of electronic pull-tabs. This manufacturer requested that the Board review the number of electronic

pull-tab devices allowed in private social quarters, and the Board granted the petitioner's request.

Special interest groups that are concerned with the expansion of gaming in the Commonwealth typically monitor the progress of all regulations pertaining to charitable gaming. The department is not aware of specific concerns with the proposed regulations.

This regulatory action poses no specific advantages or disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

No applicable federal requirements exist.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality will bear a disproportionate material impact from the proposed changes to the regulations.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping, and other administrative costs; (ii) probable effect of the regulation on affected small businesses; and (iii) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email, or fax to:

Laura Hare
Policy Analyst
VDACS, Division of Consumer Protection

PO Box 1163
 Richmond, VA 23218
 Laura.Hare@vdacs.virginia.gov
 Fax: 804-371-7479

Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>The department currently has field personnel whose duties include the inspection of permitted charitable organizations, including inspection of electronic pull-tab devices. These inspectors can monitor these devices to ensure compliance with the regulations. The department does not anticipate additional costs to enforce the proposed amendment.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>Localities will not incur costs as a result of the proposed amendment.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Qualified charitable organizations that elect to increase the number of electronic pull-tab devices as well as the suppliers and manufacturers that offer the required equipment and software will be affected by the proposed amendment.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently, there are approximately 330 charitable organizations that are permitted to conduct gaming. The department is not able to determine how many private social quarters exist as these groups are not required to register with VDACS. There are seven manufacturers of electronic pull-tabs, and, while the department does not collect data that would allow it to determine the small business status of these regulants, the department estimates that several of these businesses are small businesses. There are four suppliers of electronic pull-tabs, and, while the department does not collect data that would allow it to determine the small business status of these regulants,</p>

	the department estimates that all of these businesses are small businesses.
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Charitable organizations will not be required to increase the number of electronic pull-tab devices they provide to players. Organizations that choose to do so would need to contract with registered suppliers and manufacturers to secure the required equipment and software. Costs associated with compliance for charitable organizations should not increase, as qualifying organizations are already provided with the opportunity to utilize electronic pull-tab devices. Increasing the number of devices within a qualifying site should not increase the costs of compliance. Costs associated with compliance for suppliers and manufacturers should not increase, as electronic pull-tab devices are already offered by suppliers and manufacturers to qualifying charitable organizations. There are no real estate development costs associated with these regulations.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The proposed amendments will allow qualifying charitable organizations to offer their members and guests greater access to electronic pull-tabs. Qualifying charitable organizations, suppliers, and manufacturers will have the ability to generate additional revenue from the increase in the number of electronic pull-tab devices available to players.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The decision to increase the number of electronic pull-tab devices from five devices to nine devices is the result of a petition for rulemaking submitted by a manufacturer of electronic pull-tabs. This manufacturer requested that the Board review the number of electronic pull-tab devices allowed in qualifying sites, and the Board granted the petitioner’s request; therefore, no alternatives to this proposed action exist. The proposed amendment will not burden regulants, including those that are small businesses.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulation was drafted with the least stringent compliance requirement possible. The proposed amendment will not have an adverse impact on small businesses. The department anticipates that there will be a positive impact on small businesses, as the proposed amendment will allow qualifying charitable organizations to offer greater access to electronic pull-tabs to its members and guests. Both qualifying charitable organizations and electronic pull-tab suppliers and manufacturers will have the potential to generate additional revenue as the result of the proposed amendment.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
<p>Randall Shrader</p>	<p>Expressed his distaste for the allowance of pull-tab machines and states that he believes the current number of electronic pull-tab machines allowed already seems high. He requests that the agency not increase the number of machines allowed.</p> <p>Notes the similarities between pull-tab devices and slot machines. He mentions that the request to increase the number of pull-tab devices came from a manufacturer of the devices and not the public or charitable organizations.</p> <p>References a LA Times article from 1991 that discusses pull-tab devices and their relation to gambling addiction.</p>	<p>The General Assembly authorized the use of these electronic devices, including electronic pull-tab devices, for charitable gaming in 1996. Currently, the regulation prescribes that the number of electronic pull-tab devices allowed to be placed in private social quarters is five. The Board seeks to increase this number based on a petition of rulemaking that the Board received from a licensed manufacturer of electronic pull-tab systems. The department believes this increase is a part of the natural progression and expansion of this maturing market.</p>

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action will have no impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
11 VAC 15-40-300	N/A	The number of electronic pull-tab devices used at qualifying sites is limited to five.	The proposed amendment increases the number of electronic pull-tab devices used in private social quarters from the currently allowed five devices to nine devices. The proposed amendment will allow private social quarters to offer greater access to electronic pull-tabs to its members and guests.