



COMMONWEALTH of VIRGINIA

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MEMORANDUM

To: Michael Menefee
Program Manager
Charitable and Regulatory Programs
Virginia Department of Agriculture and Consumer Services

From: Justin I. Bell
Assistant Attorney General

Date: September 19, 2022

Subject: Letter of Assurance for the Promulgation of Charitable Gaming Regulations by Department of Agriculture and Consumer Services, Including Electronic Gaming Provisions 11 VAC 20-20

I have reviewed the Virginia Department of Agriculture and Consumer Services's (the Department) proposed Promulgation of Charitable Gaming Regulations by Department of Agriculture and Consumer Services, Including Electronic Gaming Provisions 11 VAC 20-20. In my view, as counsel to the Department, these regulations may be promulgated pursuant to § 18.2-340.19 of the *Code of Virginia* and Chapters 554 and 609 of the 2022 Acts of Assembly.

Further, the promulgation of these regulations is exempt from the requirements of Article 2 of Chapter 40 of Title 2.2 of the *Code of Virginia* pursuant to § 2.2-4006(A)(4)(a) and the second enactment of Chapters 722 and 767 of the 2022 Acts of Assembly. I note that Chapters 722 and 767 of the 2022 Acts of Assembly

mandate that the Department promulgate regulations regarding (i) the authorization of electronic gaming by social organizations, (ii) the conditions under which a social organization may lease their premises to a qualified organization for the purpose of conducting electronic gaming, (iii) the predetermined percentage of adjusted gross receipts from electronic gaming that each organization must use in support of its charitable purpose, (iv) a schedule of late fees for electronic gaming manufacturers that fail to submit required reports timely. The regulatory action does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it appear to conflict with any federal or state law currently in effect.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of this regulatory action.