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Final 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	Adds provisions for network bingo and clarifies several current provisions
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 of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 proposed regulations establish a new type of gaming license for providers of a new type of bingo game called "network bingo" and technical standards for the equipment and software that will be used to conduct "network bingo." Four articles have been added to the existing regulations and are now "Part V Network Bingo." These new articles establish various requirements, including provisions regarding (i) network bingo provider applications, qualifications, suspensions, revocation or refusal to renew permits, maintenance, and production of records; (ii) approval of equipment; (iii) location of equipment; (iv) communication and network requirements; (v) backup and recovery; (vi) security requirements; (vii) randomization; (viii) point of sale terminals; and (ix) game play requirements.

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.

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 June 14, 2016, the Charitable Gaming Board took final action to adopt amendments to the Charitable Gaming Regulations (11 VAC 15-40).

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 Charitable Gaming Board to prescribe regulations and conditions under which charitable gaming is to be conducted in Virginia. Chapters 36 and 350 of the 2013 Acts of Assembly amended the charitable gaming statute to require the Board to adopt regulations pertaining to a new bingo game called “network bingo.”

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.

Chapters 36 and 350 of the 2013 Acts of Assembly amended the charitable gaming statute to require the Board to adopt regulations pertaining to a new bingo game called “network bingo.” This regulatory action is intended to promulgate the required network bingo regulations. This action also seeks to amend provisions of the current regulation that need clarification.

Network bingo is intended to provide charitable gaming organizations with a new option to stimulate greater attendance at their gaming events and increase gaming revenues. Charitable

gaming organizations, which are non-profits, use gaming revenues to support numerous community programs that often benefit and promote the welfare of the citizens of the Commonwealth.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

Chapters 36 and 350 of the 2013 Acts of Assembly amended the charitable gaming statute to require the Board to adopt regulations that prescribe the conditions under which organizations may conduct network bingo. These regulations will also establish a percentage of the proceeds derived from network bingo sales that must be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider.

The proposed amendments establish procedures for retaining and the ultimate distribution of any unclaimed prize. This regulatory action also includes amendments to clarify existing provisions in the regulations in order to address questions that have arisen subsequent to November 2012, when 11 VAC 15-40 *et seq.* became effective.

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.

Network bingo is intended to provide charitable gaming organizations with a new option to stimulate greater attendance at their gaming events and increase gaming revenues.

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 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.

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.

This regulatory action will have no measurable impact on the institution of the family and family stability.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
11 VAC 15-40- 210 G	Security Requirements	The phrase “an independent integrity check” has been added to this subsection to clarify that an independent integrity check is required for all control programs that may affect the integrity of the distributed pull-tab system.	The addition of this phrase provides additional clarity for regulants.
11 VAC 15-40- 280 C	Point of Sale; Validation Terminal	The numbering of the list of required components for receipts printed from point of sale devices has been changed.	This renumbering of the list was done to conform to the style requirements of the Virginia Register of Regulations.

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. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
<p>Harold Mang, Electronic Game Solutions</p>	<p>Commenter represents Electronic Game Solutions, a linked (network) bingo provider based in Minnesota. Mr. Mang explains how his company's linked bingo system currently functions in Minnesota. He explains that linked bingo essentially functions as a fully automated state-wide progressive bingo game. He asserts that linked bingo has the potential to generate a \$25,000 jackpot while making money for the charitable organizations hosting the linked bingo games. He explains that the purpose of introducing this game into Virginia's bingo halls is to attract a new type of player to bingo and encourage regular players to participate in something new. He also explains that linked bingo provides larger jackpots for players, which should generate additional interest among current and potential players. Electronic Game Solutions is looking for some changes to be made to the regulation but did not provide any specifics as to the types of changes it would like to see.</p> <p>This comment was received during the public hearing held on December 8, 2015.</p>	<p>The agency would like to thank Mr. Mang and Electronic Game Solutions for their interest in this regulatory action.</p>

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
11 VAC 15-40-10	N/A	Definitions from the Charitable and Gaming Rules and Regulations	These definitions have been updated to reflect legislative changes that allow for the addition of network bingo to the Virginia realm of charitable gaming. The proposed definition section also includes expanded definitions needed to clarify the portions of the regulations pertaining to network bingo.
11 VAC 15-40-30	N/A	Permit application process	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allowed network bingo. The addition of specific language in regards to the permit application process was necessary. The phrase “network bingo providers or manufacturers” has been inserted where appropriate.
11 VAC 15-40-50	N/A	Conduct of bingo, instant bingo, pull-tabs, seal cards, event games, network bingo, and raffles	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allowed network bingo. The phrases “network bingo providers, or manufacturers”, “network bingo cards”, and combinations of those phrases have been inserted throughout where appropriate. Subsection S. references the relationship between the time network bingo cards are sold and an organization’s charitable gaming permit. Subsection V. references the requirements for session programs to list: i) all prize amounts; ii) whether the prizes are determined by attendance or at the end of a

			<p>game and if prizes are determined by attendance, program must state the attendance required for the prize amount and if prizes shall be determined at the end of the game, the program must state as much; and iii) method for determining prize amount.</p> <p>Subsection AA. clarifies what is already stated in the charitable gaming statute. The organizations may rent, lease, or purchase charitable gaming, network bingo, or electronic pull-tab supplies from permitted companies, which includes charitable gaming suppliers, network bingo providers, or a manufacturer or supplier respectively.</p>
11 VAC 15-40-60	N/A	Rules of play	<p>The proposed “Rules of play” section outlines that the adoption of “house rules” for network bingo games shall be a mutual agreement among all of the organizations participating or by the network bingo provider. Players participating in network bingo who have purchased network bingo cards do not have to be physically present at the location where the bingo numbers for a game are drawn to play the game or claim the prize. No one involved in the conduct of bingo may play bingo, play network bingo, or purchase network bingo cards at any session they have worked or intend to work.</p>
11 VAC 15-40-70	N/A	Bank accounts	<p>The proposed change to this section is intended to clarify how expenses related to network bingo may be disbursed. An electronic fund transfer from an organization to a network bingo provider must occur under a mutually agreed upon written arrangement, which is required prior to any transfer occurring between the two parties. The phrase “network bingo games”</p>

			has been inserted where appropriate.
11 VAC 15-40- 80	N/A	Recordkeeping	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo. The phrases “or network bingo supplies” and “or network bingo cards” have been inserted where appropriate. This section reflects a change in the name of bingo managers to game managers
11 VAC 15-40- 110	N/A	Requirements regarding renting premises, agreements, and landlord participation	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo. The phrases “network bingo provider” and “network bingo cards” have been inserted where appropriate. The phrase “charitable gaming” has also been inserted where appropriate.
11 VAC 15-40- 120	N/A	Suppliers of charitable gaming supplies: application, qualifications, suspension, revocation or refusal of new permit maintenance, and production of records	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo. The phrase “network bingo provider” has been inserted where appropriate. The U.S. Department of Justice has replaced the U.S. Department of Justice Gambling Devices Registration Unit. The word “organization” has replaced the term “OCG” when describing the unique identifying number assigned by the department to an organization and “organization number” has been inserted where appropriate in accordance with the “Definition” section. “Charitable gaming” has replaced “bingo” to describe supplies. The clause regarding the department’s 10 business days to inform manufacturers of either approving or disapproving submission of their electronic bingo devices has been removed. The department is unable to guarantee this deadline due to numerous factors that may

			surface during the review process and that could be out of the department's control.
11 VAC 15-40-130	N/A	Construction and other standards for bingo, instant pull-tabs, seal cards, raffles, electronic bingo devices, and instant bingo, pull-tab, and seal card dispensers	"Charitable gaming" has replaced "bingo" to describe supplies. "Session" has replaced the phrase "bingo game" in regards to raffle tickets used independent of session. These changes have been made in order to promote consistency of language throughout the statute and regulations.
11 VAC 15-40-147	N/A	Manufacturers of electronic games of chance systems: application, qualifications, suspension, revocation or refusal to renew permit, maintenance, and production of records	This section reflects changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo. The phrase "network bingo provider" has been inserted where appropriate. The U.S. Department of Justice has replaced the U.S. Department of Justice Gambling Devices Registration Unit. The word "organization" has replaced the term "OCG" when describing the unique identifying number that is assigned to an organization and "organization number" has been inserted where appropriate in accordance with the "Definition" section. The addition of the word "rents" coincides with 11 VAC 15-40-50 AA.
11 VAC 15-40-150	N/A	Approval of distrusted pull-tab systems, validation systems, point-of-sale stations, and redemption terminals; approval of game themes and sounds	The clause regarding the department's 10 business days to inform manufacturers of either approving or disapproving their electronic pull-tab system submission has been removed. The Department is unable to guarantee this deadline due to numerous factors that may surface during the review process and that could be out of the Department's control.
11 VAC 15-40-210 G	N/A	Security Requirements	The phrase "an independent integrity check" has been added to this subsection to clarify that an independent integrity check is required for all control programs

			that may affect the integrity of the distributed pull-tab system. The addition of this phrase provides additional clarity for regulants.
11 VAC 15-40-280 C	N/A	Point of Sale; Validation Terminal	The numbering of the list of required components for receipts printed from point of sale devices has been changed. This renumbering of the list was done to conform to the style requirements of the Virginia Register of Regulations.
11 VAC 15-40-420	11 VAC 15-40-600	Procedural rules for the conduct of fact-finding conferences and hearings	This section has been relocated so that this section will reflect changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo.
11 VAC 15-40-430	11 VAC 15-40-610	Reporting violations	This section has been relocated so that this section will reflect changes needed due to Chapters 36 and 350 of the 2013 Acts of Assembly, which allows for network bingo. The phrase "and network bingo provider" has been inserted where appropriate. Form 301 has been removed from the regulations because it is no longer in use.
N/A	11 VAC 15-40-440	Network bingo providers: applications, qualifications, suspension, revocation or refusal to renew permit, maintenances, and production of records	The intent of this section is to set forth requirements for network bingo providers' operation in the Commonwealth.
N/A	11 VAC 15-40-450	Approval of equipment used to perform network bingo	The intent of this section is to ensure the integrity and security of components of network bingo systems through set manufacturing and testing criteria and series of continued inspections.
N/A	11 VAC 15-40-460	Location of equipment	The intent of this section is to ensure that all equipment used to perform network bingo remains physically located within the Commonwealth.
N/A	11 VAC 15-40-470	Communications and network requirements	The intent of this section is to ensure that the integrity and security of the game is upheld

			through data communication protocols, secure connections between all components of the network bingo system, secure encryption keys, and a set of minimum standards for wireless networks.
N/A	11 VAC15-40-480	Backup and recovery	The intent of this section is to ensure that the integrity and security of the game is upheld through secure storage of data for the network bingo games, data storage requirements, database storage on redundant media, and implementation of a backup plan in the event of catastrophic failure.
N/A	11 VAC 15-40-490	Security requirements	The intent of this section is to ensure that the integrity and security of the game is upheld through specific security requirements in which it is not permitted to alter any significant information, password protection is required, and security checks are performed.
N/A	11 VAC 15-40-500	Randomization	These requirements ensure the integrity and security of the network bingo game by requiring randomization of the numbers generated on the network bingo system is completed by a random number generation application that has successfully passed standard tests for randomness and unpredictability.
N/A	11 VAC 15-40-510	Point of sale terminal	This section provides the option of using a point of sale terminal to facilitate electronic gaming transactions. The provisions of this section are intended to ensure the integrity and security of the point of sale terminal.
N/A	11 VAC 15-40-520	Game play requirements	This section is intended to ensure the integrity of the player's interaction with a network bingo card selling device, require an onsite independent supervisor, ensure organizations participating in network bingo comply with § 18.2-340.28:1 F of the Code of

			Virginia, establishes the allocation of gross receipts from the sale of network bingo cards, ensure specific duration of contracts between network bingo provider and qualified organization, ensure network bingo prizes are claimed within a specific timeframe, establish procedures for retaining and ultimate distribution of any unclaimed prize, and ensure prizes do not exceed limitation set forth in § 18.2-340.28:1 I.
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