



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Charitable Gaming
Virginia Administrative Code (VAC) citation	11 VAC 15-22
Regulation title	Charitable Gaming Rules & Regulations
Action title	Amendments to reflect Chapters 226, 347, 160 (2007 Acts of Assembly)
Date this document prepared	September 20, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The current regulations section entitled “definitions” has additions and changes to reflect changes from the above mentioned chapters. Also amended is the Conduct of Games section regarding the sale of instant bingo and the Rules of Play section to address paid callers and managers. The Financial Reporting section is amended to remove the annual report being allowed as a substitute for a quarterly report if organization had no further charitable gaming income during the reporting period. Also the late report penalty fee is being changed from \$25 per day until the report is filed, to a maximum of 30 days.

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 number(s), 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.

Statutory Authority:

§ 18.2-340.15 (A & B) - State control of charitable gaming.

§ 18.2-340.19 (A) – Regulations of the Board

Changes as a result of the following 2007 Acts of Assembly; Chapters 160, 226, 347, 541, and 790.

Approved by the Charitable Gaming Board on June 5, 2007. See attached letter from legal counsel.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The passage of House Bill #'s 3078 and 3140 along with senate bill #'s 769, 1154, and 1170 required changes to the agency's gaming regulations.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

“Bingo Caller” means an individual who operates the equipment used for the random selection of bingo numbers and announces the selected bingo numbers during the bingo session. Added definition of bingo caller to clarify for the public and gaming constituents the meaning of this term used throughout the regulations. From HB 378 – bingo callers for volunteer fire department or rescue squad or auxiliary units & HB 3140 – bingo callers not required to be a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration.

“Bingo /Game Manager” means an individual who is a bona fide member of the organization and has been designated by the organization’s management as being responsible for the operation of a particular session; for ensuring the compliance of the specific session with all applicable laws and rules and regulations; and who is present during the conduct of the designated session. Added definition of bingo/game manager to clarify for the public and gaming constituents the meaning of this term used throughout the regulations. From HB 3140 – bingo manger required to be bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration & be required to complete a reasonable training course.

“Pack” means sheets of bingo paper or electronic facsimiles assembled in the order of games to be played. This may include specials ~~and jackpots~~, but shall not include any bingo jackpots, winner-take-all, Lucky Seven or raffle.

This clarifies the meaning (SB 1179) for bingo jackpot; “winner-take-all” games.

Instant bingo, pull-tabs or seal cards shall only be sold in conjunction with a regular bingo session except as provided in §18.2-340.26:2 of the Code of Virginia.

No sales of instant bingo, pull tabs or seal cards sales sold in conjunction with a regular bingo session, shall take place more than two hours before or after a session. If multiple sessions are held at the same location, no instant bingo, pull-tabs or seal card sales shall be conducted during the required one hour break between sessions. The department may take action if it believes that a regular bingo session is not legitimate or is being conducted in a manner such that instant bingo, pull-tabs or seal cards are not being sold in conjunction with a normal, regular bingo session.

Both of these changes are a result of SB 1154. Adds §18.2-340.26.2 – provides for specific type of events when these sales can occur.

Organizations shall only purchase gaming supplies from a supplier or manufacturer who has a current permit issued by the department. This is from HB 1998 that adds the word manufacturer to whom organizations can purchase supplies.

Volunteer game workers or paid callers and managers may not play bingo at any session they have worked after the session has started. Volunteer game workers and paid callers and managers may not purchase directly or through others instant bingo, pull-tab, or seal card products from organizations they assist on the day they have volunteered or worked or from any deal they have helped sell, whichever is later.

This is the same as above for “bingo caller” and “bingo manager” – from HB 3078 and HB 3140.

Quarterly reports shall be accompanied by the appropriate audit and administration fee. Volunteer fire departments or rescue squads or auxiliary units thereof which have been recognized in accordance with § 15.2-955 of the Code of Virginia shall be exempt from the payment of audit and administration fees. An annual financial report may substitute for a quarterly report if the organization has no further charitable gaming income during the remainder of the reporting period and the annual report is filed by due date for the applicable calendar quarter.

Organization failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day from the due date until such time as the required report is filed up to a maximum of 30 days and \$750.00. The failure to file such reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is filed – and a new permit is obtained.

These two changes are from SB 769 – Chapter 541. The legislation struck “for each calendar quarter” and added “at least annually”. It also added the following language related to the Board’s responsibility; “In addition, the Board, by regulation, may require any qualified organization whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period”. The Board’s action on June 5, 2007 wanted to maintain quarterly reports, but clarified the penalty fees by “capping” the \$25 fee to “up to a maximum of 30

days and \$750 and addressing action if an organization failed to file such reports within a specified period of time.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Changes were due to legislative mandates from 2007 General Assembly. The existing regulations are not reflective of these actions and no other alternatives were considered.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Betty Bowman, Department of Charitable Gaming, 101 N. 14th Street, 17th Floor, Richmond, Va 23219, (804) 225-2598, Fax: (804) 786-1079, betty.bowman@dca.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The agency is inviting comments on the proposed changes.

Family impact

Assess the potential impact of the proposed 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.

It is anticipated that the proposed regulatory action will have no impact on the institution of the family and family stability.

Periodic review – Public comment

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Commenter	Comment	Agency response

N/A

Periodic review – Discussion

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review or if the periodic review is to be performed in combination with the NOIRA, please include a discussion of the agency's consideration of: (1) the continued need for the rule; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

N/A