



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Charitable Gaming
<b>Virginia Administrative Code (VAC) citation</b>	11 VAC 15 -22
<b>Regulation title</b>	Charitable Gaming Rules & Regulations
<b>Action title</b>	Amendments to reflect Chapters 226, 347, 160 (2007 Acts of Assembly)
<b>Date this document prepared</b>	March 10, 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*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

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., the 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(s) from legal counsel.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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 briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

"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.

## 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

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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. It is anticipated that the proposed regulatory action will pose no disadvantages to the public or the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are 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.*

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N/A

**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.*

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Charitable Gaming Rules and Regulations are state-wide.

**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.*

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In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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. 14<sup>th</sup> Street, 17<sup>th</sup> Floor, Richmond, VA 23219 (804) 225-2598, FAX: (804) 786-1079. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>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</b>	Printing – \$4,000 (one-time) Web changes - \$320 (one-time)
<b>Projected cost of the regulation on localities</b>	N/A
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Charitable Gaming Organizations – 560 Suppliers - 22
<b>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.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Suppliers – 22 companies
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	\$4,320

**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.*

Changes were due to legislative mandates from the 2007 General Assembly.

**Regulatory flexibility analysis**

*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.*

Changes to these regulations were required as a result of legislation passed during the 2007 General Assembly.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response. NO COMMENTS WERE RECEIVED*

Commenter	Comment	Agency response

**Family impact**

*Please assess the 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.

**Detail of changes**

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

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

<p>11 VAC 15-22-10</p>	<p>N/A</p>	<p>No definitions were listed</p>	<p><u>“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.</u></p> <p><u>“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.</u></p>
<p>Same</p>	<p>N/A</p>	<p>No definitions was listed for bingo jackpot</p>	<p>Pack” means sheets of bingo paper or electronic facsimiles assembled in the order of games to be played. This may include specials <del>and jackpots</del>, but shall not include any <u>bingo jackpots</u>, winner-take-all, Lucky Seven or raffle. Changed required by SB 1179.</p>
<p>11 VAC 15-22-40</p>	<p>U.</p>	<p>Separated how instant bingo, pull-tabs, seal cards can be sold; further clarification.</p>	<p>T. Instant bingo, pull-tabs or seal cards shall only be sold in conjunction with a regular bingo session <u>except as provided in §18.2-340.26:2 of the Code of Virginia.</u></p> <p>U. No <u>sales of</u> instant bingo, pull tabs or seal cards <del>sales sold in conjunction with a regular bingo session</del>, 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. Change required by SB 1154.</p>

Same	N/A	Added word to which organizations can purchase gaming supplies.	<p><del>AA.BB.</del>Organizations shall only purchase gaming supplies from a supplier <u>or manufacturer</u> who has a current permit issued by the department. Changed required by BH 1998.</p>
11 VAC 15-22-50	N/A	Added definitions to who can play bingo at sessions	<p>D. Volunteer game workers <u>or paid callers and managers</u> may not play bingo at any session they have worked after the session has started. Volunteer game workers and <u>paid callers and managers</u> 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 <u>or worked</u> or from any deal they have helped sell, whichever is later.</p>
11 VAC 15-22-80	N/A	Struck through language in section D. Added language in section E to clarify Board's request for financial report submissions and penalty fees.	<p>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. <del>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.</del></p> <p>E. Organization failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day <del>from the due date until</del></p>



			<p><u>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.</u></p>
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