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Notice of Intended Regulatory Action (NOIRA) 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 non-profit organizations at various qualified sites
Date this document prepared	October 22, 2015

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*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

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 planned 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 non-profit 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, this regulation allows a maximum of 10 stand-alone electronic pull-tab devices and 50 handheld electronic pull-tab devices in premises that are open to the public, while private social quarters are limited to a total of five electronic pull-tab devices, regardless of type. These limits were based on an agreement reached between stakeholders during the drafting of the final text of 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.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency'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 September 8, 2015, the Board voted to authorize staff to file a Notice of Intended Regulatory Action to amend 11 VAC 15-40, *Charitable Gaming Regulations*.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

This proposed regulatory action will examine the limit on the number of electronic pull-tab devices that may be used at various qualified sites run by non-profit organizations. The goal of this regulatory action is to increase the number of devices permitted to operate at various qualified sites. Increasing device limits will provide an opportunity for participating non-profit 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. We do 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 that are being considered, the substantive changes to existing sections that are being considered, or both.

Substantive provisions will include amendments to 11 VAC 15-40, *Charitable Gaming Regulations* that will increase the number of electronic pull-tab devices that qualifying non-profit organizations may operate at various qualified sites.

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.

This regulatory action was initiated in response to a Petition for Rulemaking from a licensed manufacturer of electronic pull-tab systems, which VDACS believes to be a small business. No alternatives to the proposed regulatory action that would meet the essential purpose of the action are available. The regulatory action seeks to increase the number of stand-alone electronic pull-tab devices and handheld electronic pull-tab devices allowed in premises at which charitable gaming is conducted and in private social quarters. The regulatory action does not put forth any new requirements that would require a small business to incur additional costs or burdens. Use of electronic pull-tab devices by qualified non-profit organizations is elective. Likewise, making use of an increase in device limits is voluntary for any participating non-profit organization or small business.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including 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. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to (i) ideas to be considered in the development of this proposal, (ii) the costs and benefits of the alternatives stated in this background document or other alternatives, and (iii) the 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 (i) projected reporting, recordkeeping, and other administrative costs, (ii) the probable effect of the regulation on affected small businesses, and (iii) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to:

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Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time. A regulatory advisory panel will not be used.