

Project 2008 - none

CHARITABLE GAMING BOARD

CH 31 Amendments to reflect merger and change in permit exemption threshold

11VAC15-31-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Agent" means any person authorized by a supplier to act for or in place of such supplier.

"Board" means the Virginia Charitable Gaming Board.

"Cash" means United States currency or coinage.

"Commissioner" means the commissioner of the Virginia Department of Agriculture and Consumer Services.

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open" or "Bonanza Bingo."

"Conduct" means the actions associated with the provisions of a gaming operation during and immediately before or after the permitted activity, which may include, but is not limited to (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets; (ii) calling bingo games; (iii) distributing prizes; and (iv) any other services provided by volunteer workers.

"DCG number" means a unique identification number issued by the department.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, pull-tabs, or seal cards with the same serial number.

"Department" means the Virginia Department of ~~Charitable Gaming~~ Agriculture and Consumer Services, Division of Charitable Gaming.

"Designator" means an object used in the number selection process, such as a ping-pong ball, upon which bingo letters and numbers are imprinted.

~~"Director" means the Director of the Virginia Department of Charitable Gaming.~~

"Disposable paper card" means a nonreusable paper bingo card manufactured with preprinted numbers.

"Electronic bingo device" means an electronic device that uses proprietary software or hardware, or is used in conjunction with commonly available software and computers, to display facsimiles of bingo cards and allows a player to daub such cards.

"Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, electronic verifiers and replacement parts for such equipment.

"Fiscal year" or "annual reporting period" means the 12-month period beginning January 1 and ending December 31 of any given year.

"Flare" means a piece of paper, cardboard or similar material which bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, serial number, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tabs, or seal cards.

"Immediate family" means one's spouse, parent, child, sibling, grandchild, grandparent, mother or father-in-law or stepchild.

"Interested persons" means the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"Management" means the provision of oversight of a gaming operation, which may include, but is not limited to, the responsibilities of applying for and maintaining a permit or authorization; compiling, submitting and maintaining required records and financial reports; and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Manufacturer" means a person or entity that assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person or entity that modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

"Operation" means the activities associated with production of a charitable gaming activity, which may include, but is not limited to (i) the direct on-site supervision of the conduct of charitable gaming, (ii) coordination of volunteers, and (iii) all responsibilities of charitable gaming designated by the organization's management.

"Owner" means any individual with financial interest of 10% or more in a supplier.

"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 winner-take-all, Lucky Seven or raffle.

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a manually or mechanically operated device to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set, each instant bingo, pull-tabs or seal card in a deal, each electronic bingo device or each door prize ticket.

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

11VAC15-31-20. Suppliers of charitable gaming supplies: application, qualifications, suspension, revocation or refusal to renew permit, maintenance, and production of records.

A. Prior to providing any charitable gaming supplies, a supplier shall submit an application on a form prescribed by the department and receive a permit. A \$1,000 application fee payable to the Treasurer of Virginia is required. In addition, a supplier must be authorized to conduct business in the Commonwealth of Virginia, which may

include, but not be limited to, registration with the State Corporation Commission, the Department of Taxation, and the Virginia Employment Commission. The actual cost of background investigations for a permit may be billed by the department to an applicant. The department shall act on an application within 90 days of the date of the application.

B. The department may refuse to issue a permit or may suspend or revoke a permit if an officer, director, employee, agent or owner:

1. Is operating without a valid license, permit or certificate as a supplier or manufacturer in any state in the United States;
2. Fails or refuses to recall a product as directed by the department;
3. Conducts business with unauthorized entities or is not authorized to conduct business in the Commonwealth of Virginia;
4. Has been convicted of or pleaded nolo contendere to any crime as specified by § 18.2-340.34 B of the Code of Virginia; has had any license, permit certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; has failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or has failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763 of the Code of Virginia. As this provision relates to employees or agents, it shall only apply to individuals involved in sales to or solicitations of customers in the Commonwealth of Virginia;
5. Fails to notify the department within 20 days of the occurrence, knowledge, or receipt of the filing of any administrative or legal action relating to charitable

gaming or the distribution of charitable gaming supplies involving or concerning the supplier, any officers or directors, employees, agent, or owner during the term of its permit;

6. Fails to provide to the department upon request a current Letter for Company Registration on file with the U.S. Department of Justice—Gambling Devices Registration Unit, if required in accordance with The Gambling Devices Act of 1962, 15 USC §§ 1171-1178, for any device that it sells, distributes, services or maintains in the Commonwealth of Virginia; or

7. Has been engaged in conduct that would compromise the department's objective of maintaining the highest level of integrity in charitable gaming.

C. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies for use by anyone in the Commonwealth of Virginia other than to an organization with a permit from the department or another permitted supplier. However, a supplier may:

1. Sell charitable gaming supplies to an organization that expects to gross ~~\$25,000~~ \$40,000 or less in any 12-month period, providing that the amount of such purchase would not be reasonably expected to produce more than ~~\$25,000~~ \$40,000 in gross sales. For each such organization, the supplier shall maintain the name, address and telephone number. The supplier shall also obtain a written and signed statement from an officer or game manager of such organization confirming that gross receipts are expected to be ~~\$25,000~~ \$40,000 or less. Such statement shall be dated and kept on file for three years from the end of a fiscal year.

2. Sell bingo cards and paper to persons or entities other than qualified organizations provided such supplies shall not be sold or otherwise provided for use in charitable gaming activities regulated by the department or in unlawful gambling activities. For each such sale, the supplier shall maintain the name, address and telephone number of the purchaser. The supplier shall also obtain a written statement from the purchaser verifying that such supplies will not be used in charitable gaming or any unlawful gambling activity. Such statement shall be dated and kept on file for three years from the end of a fiscal year. Payment for such sales in excess of \$50 shall be accepted in the form of a check.

3. Sell pull-tabs and seal cards to organizations for use only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull-tabs or seal cards are sold is open only to members and their guests as authorized by § 18.2-340.26:1 of the Code of Virginia. Each such sale shall be accounted for separately and the accompanying invoice shall be clearly marked: "For Use in Social Quarters Only."

All such sales shall be documented pursuant to subsection H of this section and reported to the department pursuant to subsection J of this section. This provision shall not apply to the sale to landlords of equipment and video systems as defined in this chapter. Equipment and video systems shall not include dispensing devices and electronic bingo devices.

D. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies to any individual or organization in the Commonwealth of Virginia unless the charitable gaming supplies are purchased or obtained from a manufacturer or another permitted supplier. Suppliers may take back for credit and resell supplies received from

an organization with a permit that has ceased charitable gaming or is returning supplies not needed.

E. No supplier, supplier's agent, or employee may be involved in the management, operation or conduct of charitable gaming in the Commonwealth of Virginia. No member of a supplier's immediate family or person residing in the same household as a supplier may be involved in the management, operation or conduct of charitable gaming of any customer of the supplier in the Commonwealth of Virginia. No supplier, supplier's agent or employee may participate in any charitable gaming of any customer of the supplier in the Commonwealth of Virginia. For the purposes of this regulation, servicing of electronic devices shall not be considered conduct or participation.

F. The department shall conduct a background investigation prior to the issuance of a permit to any supplier. The investigation may include, but shall not be limited to, the following:

1. A search of the Virginia Central Criminal Records Exchange (CCRE) on all officers, directors and owners; and
2. Verification of current compliance with Commonwealth of Virginia state tax laws.

If the officers, directors or owners are domiciled outside of the Commonwealth of Virginia, or have resided in the Commonwealth of Virginia for fewer than five years, a criminal history search conducted by the appropriate authority in any state in which they have resided during the previous five years shall be provided by the applicant.

G. Appropriate information and authorizations shall be provided to the department to verify information cited in subsection F of this section.

H. Suppliers shall document each sale or rental of charitable gaming supplies to an organization in the Commonwealth of Virginia on an invoice which reflects the following:

1. Name, address, and DCG number of the organization;
2. Date of sale or rental and location where bingo supplies are shipped if different from the billing address;
3. Name, form number and serial number of each deal of instant bingo, pull-tabs, seal cards or bundles, and the number of cards in each deal;
4. Quantity of deals sold, the cost per deal, the selling price per card, the cash take-in per deal and the cash payout per deal;
5. Serial number of the top sheet in each pack of disposable bingo paper, the number of sheets in each pack or pad, the cut and color and the number of packs or pads sold;
6. Serial number for each series of uncollated bingo paper and the number of sheets sold;
7. Detailed information concerning the type, quantity and individual price of any other charitable gaming supplies or related items including, but not limited to, concealed face bingo cards, hard cards, markers or daubers and refills, or any other merchandise. For concealed face bingo cards, the number of sets, price per set and the serial number of each set shall be included; and
8. Any type of equipment, device or product manufactured for or intended to be used in the conduct of charitable games including, but not limited to, designators, designator receptacles, number display boards, selection devices, dispensing machines and verification devices.

I. Suppliers shall ensure that two copies of the detailed invoice are provided to the customer for each sale of charitable gaming supplies.

J. Each supplier shall provide a report to the department by March 1 of each year on sales of charitable gaming supplies for the fiscal year ending December 31 of the previous year to each organization in the Commonwealth of Virginia. This report shall be provided to the department on computer disk or other department-approved media. The report shall include the name and address of each organization and the following information for each sale or transaction:

1. Bingo paper sales including purchase price, description of paper to include number of sheets in pack and number of faces on sheet, quantity of single sheets or packs shipped;
2. Deals of instant bingo, pull-tabs, seal cards, or any other raffle sales including purchase price, deal name, deal form number, number of tickets in deal, ticket price, cash take-in per deal, cash payout per deal, and number of deals;
3. Electronic bingo device sales including purchase or rental price and number of units; and
4. Sales of miscellaneous items such as daubers, markers, and other merchandise including purchase price, description of product, and number of units.

K. The department shall set manufacturing and testing criteria for all electronic bingo devices and other equipment used in the conduct of charitable gaming. An electronic bingo device shall not be sold, leased or otherwise furnished to any person in the Commonwealth of Virginia for use in the conduct of charitable gaming until an identical sample device containing identical proprietary software has been approved by a testing

facility that has been formally recognized by the department as a testing facility that upholds the standards of integrity established by the department. The testing facility must certify that the device conforms, at a minimum, to the restrictions and conditions set forth in these regulations. Once the testing facility reports the test results to the department, the department will either approve or disapprove the submission and inform the manufacturer of the results within 10 business days. If any such equipment does not meet the department's criteria, it shall be recalled and shall not be distributed in the Commonwealth of Virginia. The cost of testing shall be borne by the manufacturer of such equipment.

L. Department employees shall have the right to inspect all electronic and mechanical equipment used in the conduct of charitable gaming.

M. Suppliers, their agents and employees, members of the supplier's immediate family or persons residing in their household shall not make any loan directly or indirectly to any organization or officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of a supplier's customer located in the Commonwealth of Virginia.

N. No supplier, supplier's agent or employee shall directly or indirectly provide a rebate, discount or refund to any person other than an organization which purchases supplies or leases or purchases equipment from the supplier. All such transactions shall be recorded on the supplier's account books.

O. A supplier shall not rent, sell or otherwise provide electronic bingo devices unless he possesses a valid permit in the Commonwealth of Virginia.

P. A written agreement specifying the terms of lease or rental shall be required for any electronic bingo devices provided to an organization.

11VAC15-31-50. Procedural rules for the conduct of fact-finding conferences and hearings.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no permit to sell charitable gaming supplies shall be denied, suspended or revoked except upon notice stating the basis for such proposed action and the time and place for a fact-finding conference, as set forth in § 2.2-4019 of the Administrative Process Act.

2. If a basis exists for a refusal to renew, suspend or revoke a permit, the department shall notify, by certified mail or by hand delivery, the interested persons at the address of record maintained by the department.

3. Notification shall include the basis for the proposed action and afford interested persons the opportunity to present written and oral information to the department which may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the department at least 14 days before the scheduled conference.

4. If, after consideration of evidence presented during an informal fact-finding conference, a basis for action still exists, the interested persons shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the

conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a permit, interested persons shall be notified by certified or hand-delivered mail of the proposed action and of the opportunity for a hearing on the proposed action. If a supplier desires to request a hearing, it shall notify the department within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to or subsequent to an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the supplier is located. If the parties agree, hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or bases for the recommendations.

Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The department shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation. The ~~director's~~ commissioner's designee may represent the department in an informal conference or at a hearing.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official: _____

Name of agency: _____

Date: _____