

Virginia Department of Charitable Gaming



2007 Annual Report to the
Governor and General Assembly

September 18, 2007

To the Governor and the Members of the General Assembly:

Section 18.2-340.18(8) of the *Code of Virginia* requires: “The Department (of Charitable Gaming) shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Department and any recommendations for legislation applicable to charitable gaming in the Commonwealth.” The purpose of this report is to meet this requirement for the period of July 1, 2006 to June 30, 2007, Fiscal Year 2007.

Introduction

The Department of Charitable Gaming (the Department) has just completed its fourth year of operation since the 2003 General Assembly passed Senate Bill 1278 (Chapter 884, 2003 Acts of Assembly), which implemented sweeping reforms to the regulation of charitable gaming in the Commonwealth. The Department continues to make substantial progress in meeting the intent of this legislation by working collegially and cooperatively with charitable organizations, while at the same time fulfilling its statutory and regulatory missions. Charitable gaming continues to be an important and viable source of funding for Virginia’s qualified non-profit organizations.

Charitable Gaming in Virginia

Charitable gaming in Virginia produced reported gross sales of nearly \$315 million for CY 2006, the most recent year for which data is available. This figure does not include the sale of pull tabs in charitable organizations’ social quarters as with the passage of SB 1177 by the 2001 General Assembly that information is no longer reported to the state. However, it is estimated that these sales exceeded \$70 million for CY 2006. Also, organizations that conduct charitable gaming at a level of less than \$25,000 in annual gross sales are exempt from permit and reporting requirements, but these activities are estimated to produce at least an additional \$30 million in gross revenue. All told, charitable gaming in the Commonwealth is an industry estimated to produce \$400 million in gross sales per year.

In CY 2006, over \$45 million, or 14.5% of reported gross sales, was provided for lawful religious, charitable, community or educational purposes. The current requirement is that a minimum of 10% of gross sales must be used for charitable purposes. It is important to note, that on average 75% of gross bingo sales are used to pay prizes. Therefore, of the net proceeds after prize payouts, approximately 58% went to charity.

An analysis done by the Department for CY 2006 found that nearly 33% of the organizations around the state did not meet the minimum 10% requirement for charitable contributions. On January 1, 2006, new Charitable Gaming Board regulations became effective which provides that any organization failing to meet the 10% minimal requirement shall be afforded an opportunity for corrective action prior to the Department revoking their charitable gaming permit. The new regulations also allow for

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organizations that are unable to meet this requirement to request a temporary waiver from the Department.

The Department audit staff has screened all 2006 financial reports for charitable contributions compliance. One hundred ninety-seven organizations did not meet the 10% minimum threshold. These organizations will receive audits detailing the organizations' actions that led to the non-compliance and the corrective actions necessary to meet the minimum charitable contribution in the future. The Department is working with these organizations to achieve charitable contribution compliance next year.

Financial Statement of the Department

For FY 2007, the Department collected \$3,369,900 in revenues, which were deposited into the general fund. The major source of the Department's revenue (\$3 million) is from a one and one-eighth percent audit and administration fee based on gross charitable gaming revenues in the Commonwealth. It should be noted that the fee, which is set by the Department, remains lower than the one and one-quarter percent maximum established in § 18.2-340.31 of the *Code of Virginia*. The other sources of revenue included \$170,500 from permit application fees and \$104,500 from late fees on quarterly and annual financial reports not filed on time.

The Department had a general fund appropriation of \$2,707,751 for FY 2007. The Department expended \$2,707,745.19 during FY 2007 leaving a year end balance of \$5.81. The vast majority (\$1.9 million) of the Department's budget was used for personnel costs. All fees received by the Department are deposited to the Commonwealth's general fund. The difference between revenues and expenditures results in net revenue of \$662,155 that was deposited to the Commonwealth's general fund.

Administration

The reforms instituted by SB 1278 (2003) has evolved the Department's structure into four operational units; Audit, Enforcement, Licensing and Regulation, Inspection and Training. Each unit is supervised by a manager who reports directly to the Assistant Director-Operations, who is responsible for overseeing all daily operational issues. The Assistant Director-Administration is responsible for all administrative and office functions. The Department continues to maximize efficiency through the use of developed agreements with other state agencies to assist with the following administrative functions: Department of Accounts for payroll, Department of Human Resources Management for personnel issues, the Department of General Services for fiscal, procurement, database and webpage management.

The Department's maximum Position Level remains at 31 full-time equivalents (FTE).

Licensing and Regulation

The Licensing and Regulation Unit is responsible for processing applications for charitable gaming permits, bingo callers and/or managers, and charitable gaming suppliers in the Commonwealth. Each respective permittee is required to renew its permit on an annual basis.

There were 661¹ charitable gaming permits issued to qualified organizations during FY 2007. Of these organizations, 106 were permitted to conduct raffles, 144 were permitted to conduct bingo, and 411 were permitted to conduct bingo and raffles. The Department also issues bingo caller and bingo manager registration certificates. For FY 2007, the Department issued registration certificates for 33 bingo callers, 44 bingo managers, and ten bingo caller/bingo managers.

In addition, the Department issues charitable gaming supplier permits for the sale and distribution of charitable gaming supplies in the Commonwealth. For FY 2007, the Department issued 21 charitable gaming supplier permits.

The Licensing Unit is also responsible for regulatory actions should a permitted organization be found to be operating in contradiction to the charitable gaming statute and/or charitable gaming rules and regulations. For FY 2007 the Department entered into consent orders with two organizations to address statutory and regulatory violations. With alternative strategies authorized by the Administrative Dispute Resolution Act, the Department was effective in working with organizations in a non-adversarial approach to correct statutory or regulatory deficiencies.

Inspection and Gaming Training

On-site inspection of gaming operations is a crucial element of the regulatory process. During FY 2007, the Department completed 1,267 inspections (as compared to 1,240 in FY 2006 and 491 in FY 2005).

Increasing training opportunities for charitable organizations has been an important strategy for the Department to increase compliance with charitable gaming laws and regulations. During FY 2007, the Department held a total of 118 game management training sessions (as compared to 110 in FY 2006 and 97 in FY 2005), which included 18 regional training sessions, 16 bingo caller/bingo manager training sessions, 73 sessions for organizations new to gaming or requesting assistance and 11 sessions specific to organizations' needs as identified in an audit.

¹ Due to a statutory change on July 1, 2006, the Department had to "ISSUE" charitable gaming permits to fire departments, rescue squads and auxiliary units thereof that had current exempt authorizations. For this year only, the permit number is higher.

Audits

The Department completed a total of 263 audits of charitable gaming operations during FY 2007. This compares to 158 audits completed by the Department during FY 2006, 136 completed during FY 2005, 90 completed during FY 2004, 65 completed during FY 2003, 52 completed in FY 2002 and 43 completed in FY 2001 by the former Charitable Gaming Commission. The Department has established a goal to audit every organization at least once each three years.

The audits completed during FY 2007 found over \$5.4 million in unreported gross gaming sales. These findings support over \$540,000 in additional funds required to be used for charitable purposes and over \$38,000 in additional revenue for the state. In addition, the audits resulted in the implementation of a variety of corrective action plans and consent orders to assist organizations in complying with statutes and regulations and improving control of their charitable assets. Results of audits have also lead to several regulatory actions and criminal investigations.

Enforcement

During FY 2007 the Enforcement Unit opened 81 investigations. Most of the information to open investigations was received on the Department's complaint line, discovered through the Department's audit or inspection process, or reported by members of organizations who were concerned about potential violations. The Department of Charitable Gaming Enforcement Unit participated in and completed several successful prosecutions throughout the state. Some of the notable cases investigated include:

Norfolk – One individual was convicted in the Norfolk Circuit Court of two counts of embezzlement, stealing funds from a charitable organizations bingo game. Subject was sentenced to twelve months in jail on each count, suspended for two years of uniform good behavior. Also ordered to perform forty hours of community service and attend larceny counseling through the LOTS program.

Virginia Beach – One individual was convicted in the Virginia Beach Circuit court of two counts of embezzlement and two counts of converting funds from charitable gaming to his own or another's use, stealing funds from a charitable organizations bingo game. Subject is awaiting sentencing.

Staunton – An individual was convicted in the Federal Western District Court of seven felony charges, mail fraud, identity theft and credit card fraud, all involving funds generated from charitable gaming. Due to the subject's medical condition, he was sentenced to 18 months home confinement and 24 months supervised release. He was ordered to pay restitution in the amount of \$120,000 at \$500 per month plus an immediate payment of \$40,000.

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Charitable Gaming Regulations

HB 525 was passed by the 2006 General Assembly and signed by the Governor on April 5, 2006, with an effective date of July 1, 2006. Revisions to the Charitable Gaming Rules and Regulations and the Supplier Regulations due to the statutory changes in HB 525 were approved by the Charitable Gaming Board on June 7, 2006. Final regulations were published in *The Virginia Register of Regulations* and became effective August 9, 2006.

Revisions to the Charitable Gaming Rules and Regulations and the Supplier Regulations were also considered and approved by the Charitable Gaming Board on June 5, 2007. The proposed regulations approved by the Board are proceeding through the Administrative Process Act rulemaking process.

Recommendations for Legislation

SB 842, SB 769, SB 1154, SB 1179, HB 2389, HB 3078, HB 3140 and HB 1998 were passed by the 2007 General Assembly and signed by the Governor with an effective date of July 1, 2007. The Department has no legislative recommendations for the 2007 General Assembly.