



Joint Subcommittee to Study the Percentage of Charitable Gaming Receipts to Be Used for Required Purposes

August 24, 2021, at 1:00 p.m.

Pocahontas Building, House Committee Room

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The Joint Subcommittee to Study the Percentage of Charitable Gaming Receipts to Be Used for Required Purposes (the Subcommittee) met in Richmond with Delegate Paul E. Krizek, chair, presiding.¹ The meeting began with remarks by the chair followed by presentations and discussion. Materials presented at the meeting are accessible through the [Subcommittee's meetings webpage](#).

Opening Remarks

Per the chair's request, staff described the substance of letters sent to the Subcommittee, which included a cease and desist letter, a response to the cease and desist letter from Senator Bryce E. Reeves, and a legal opinion from Senator William M. Stanley, Jr., on the legality of charitable gaming expansion.

Presentation: Budget Language on Charitable Gaming

Jason Powell, Special Projects Deputy, Senate Committee on Finance and Appropriations

Senator Reeves asked Mr. Powell to discuss the intent of language in the budget bill related to charitable gaming (Item 105 of Chapter 552 of the Acts of Assembly of 2021, Special Session I). Mr. Powell explained that the language puts in place a moratorium on the promulgation of new charitable gaming regulations and prohibits the Virginia Department of Agriculture and Consumer Services (VDACS) from authorizing any new gaming devices after March 1, 2021. The language also directs the Office of the State Inspector General (OSIG) to review the regulation of charitable gaming in Virginia and report to the General Assembly by October 1, 2021. Mr. Powell noted that, based on commonly known legal rules that a specific provision trumps a general one and that the most recently enacted legislation prevails over any prior acts, the budget language would supersede any previously enacted law in the event of a direct conflict.

Presentation: Regulation of Charitable Gaming

Michael Menefee, Program Manager, Office of Charitable and Regulatory Programs, VDACS

Mr. Menefee discussed the different responsibilities of the Office of Charitable and Regulatory Programs (OCRP), which include regulating charitable gaming. He noted that there are three types of charitable gaming allowed under Virginia law — live bingo, instant bingo (also known as pull-tabs or seal cards), and raffles — and that gross receipts from organizations conducting charitable gaming have been steady over the past decade except for a steep decline during the COVID-19 pandemic.

¹ **Members Present:** Delegate Paul E. Krizek (chair), Senator John J. Bell (vice-chair; virtual), Senator Adam P. Ebbin, Senator Emmett W. Hanger, Jr., Senator Bryce E. Reeves, Delegate Terry L. Austin (virtual), Delegate David A. Reid.

Members Absent: Delegate Lashrecse D. Aird.

Mr. Menefee said that OCRP's regulatory authority has changed over time, pointing out that Chapter 833 of the Acts of Assembly of 2001 removed OCRP's ability to regulate pull tabs in "private social quarters," a term not defined by statute. Senator Emmett W. Hanger, Jr., indicated that he had voted on the enactment of the 2001 legislation and stated that he believed the intent was to eliminate bureaucratic obstacles to legitimate charities conducting gaming. Delegate Krizek asked if illegal gambling currently is occurring in private social quarters, and Mr. Menefee responded that OCRP's investigators would report anything that they found. Delegate Krizek and Senator Reeves asked a series of questions on the practices involved with regulating pull-tab devices. Mr. Menefee explained that organizations with electronic pull-tab devices must display their permits and must have a VDACS sticker attached to each device. Delegate Krizek asked if the permit identifies the number of devices allowed at the location, to which Mr. Menefee answered no.

Delegate Krizek asked if it was possible for an operator to alter the software on a pull-tab device after its inspection by OCRP. Mr. Menefee responded affirmatively but stated that OCRP contracts with testing labs, which receive reports on the use of each device that would show any aberrations.

Senator Reeves asked if any new devices have been permitted since the budget language took effect. Mr. Menefee answered negatively but stated that if prior to the effective date an operator's permit allowed for more devices than it currently had in operation, it may be possible for that operator to increase its number of devices after the budget language's effective date. Senator Reeves responded that he disagreed with this interpretation of the law.

Senator John J. Bell asked about the current timeline for OCRP to respond to a complaint of illegal gaming, to which Mr. Menefee responded about 30 days. In response to a question from Delegate David A. Reid, Mr. Menefee stated that OCRP has three field inspectors but is currently in the process of filling additional positions that were funded by the General Assembly.

Presentation: Investigation of Charitable Gaming

Adam Tagert, Audit Manager, OSIG

Mr. Tagert reviewed the items that OSIG was directed to investigate pursuant to Chapter 520 of the Acts of Assembly of 2021, Special Session I. He explained OSIG's procedures for accomplishing each item. Senator Reeves asked how long after an initial complaint of illegal activity it takes for OCRP to revoke an operator's permit, to which Mr. Tagert responded about two to three years.

Presentation: Enforcement of Charitable Gaming Laws

Lt. Col. Timothy Lyon, Director, Bureau of Criminal Investigation, Virginia State Police

Lt. Col. Lyon stated that the Code of Virginia gives Virginia State Police (VSP) the authority to assist OCRP in the enforcement of charitable gaming regulations, upon request. However, he noted, VSP rarely receives such requests and is involved in charitable gaming investigations infrequently. He added that in the few instances when VSP has been involved, it has been in cases of embezzlement or misappropriation of funds by charitable organizations. Senator Reeves requested that Lt. Col. Lyon develop a proposal, including required funding, for VSP to create a statewide enforcement program of the state's illegal gambling laws.



Presentation: Enforcement of Charitable Gaming Laws

Nathan Green, President-Elect, Virginia Association of Commonwealth's Attorneys

Mr. Green stated that although the Code of Virginia gives attorneys for the Commonwealth the statutory authority to prosecute crimes related to illegal gambling (specifically, the Code states that any violation of the regulations is a Class 1 misdemeanor), in practice they are not frequently involved in cases involving the charitable gaming statutes and regulations. In response to a question from Senator Adam P. Ebbin, Mr. Green stated that attorneys for the Commonwealth receive very few complaints of illegal gaming activity. Senator Reeves asked if Mr. Green was aware of the legal rule that the most recently enacted legislation prevails over any prior acts and suggested that there may be confusion among attorneys for the Commonwealth about the application of this rule to the budget language on charitable gaming.

Presentation: Texas Hold'em Regulations

Tad Berman, Virginians for Integrity in Horse Racing and Casino Gambling

Tad Berman gave an overview of his report (available [here](#)) on the enactment of regulations by the Charitable Gaming Board (the Board) on the conduct of Texas Hold'em games by charitable organizations. In his report, Mr. Berman identifies Board members who he believes have a conflict of interest that prevents them from enacting fair regulations.

Senator Reeves asked if Mr. Berman had any knowledge of illegal electronic gaming occurring in Virginia. Mr. Berman answered yes and stated that he believes it is taking place at about a dozen locations. He described visiting a location that had devices that did not have a visible OCRP sticker and that he therefore believed were unlicensed.

Next Meeting

Delegate Krizek announced that staff is currently polling Subcommittee members on their availability for a potential meeting in September.

For more information, see the [Subcommittee's website](#) or contact the Division of Legislative Services staff:

Ashley Binns, Attorney, DLS
abinns@dls.virginia.gov
804-698-1812

Connor Garstka, Attorney, DLS
cgarstka@dls.virginia.gov
804-698-1869

