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

September 20, 2021, at 3:00 p.m.

Pocahontas Building, House Committee Room

[dls.virginia.gov/interim\\_studies\\_CGR.html](https://dls.virginia.gov/interim_studies_CGR.html)

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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.<sup>1</sup> 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](#).

### **Presentation: Manufacturers of Electronic Pull Tab Machines**

*Creative Game Technologies—Chad Criger, Vice President of Operations*

*Powerhouse Gaming—Mark Newton, Vice President*

*Grover Gaming—Marc Downing, Chief Counsel & Director of Compliance*

The Subcommittee heard from representatives of three of the major gaming manufacturers of electronic pull tab machines. Each representative discussed the major differences between a traditional slot machine and an electronic pull tab machine. They also explained how electronic pull tab games are operated and the average payout percentage. Each manufacturer expressed an opinion that, while current regulations regarding charitable gaming are robust and effective, things could be fine-tuned. There was also a general consensus amongst the manufacturers that, instead of charities having to use a certain percentage of gross receipts for their stated charitable purposes, they should be able to use a certain percentage of their net receipts instead.

### **Presentation: Eclipse Compliance Testing**

*Nick Farley, President*

Mr. Farley presented on the software verification and compliance process with regard to electronic pull tab machines. He noted that most other states use Virginia's regulatory scheme as a model for their own regulations, and there are currently quite a few checks and balances in place to make sure unverified games and software are not on the market. Mr. Farley expressed that more periodic audits of gaming software or scheduled audits for software re-verification before a game goes live could be helpful and cut down on any bad actors that have noncompliant software or gaming machines.

### **Presentation: Virginia Charitable Gaming Council**

*Chris Petersen, Arbor Strategies*

Mr. Petersen gave an overview and background of charitable gaming in Virginia and walked the Subcommittee through the current regulatory framework. He noted that current regulations are

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<sup>1</sup> **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 Lashrecse D. Aird, Delegate Terry L. Austin, and Delegate David A. Reid

**Members Absent:** None

extensive, but due to funding issues, the current regulator, the Virginia Department of Agriculture and Consumer Services (VDACS), is behind on marking legal gaming machines with a specified VDACS sticker that shows that each machine has been tested and is approved for use. He said the existing system works well in terms of regulating qualified charitable organizations but that there has been an increasing issue with gaming machines being operated by non-qualified entities because of the existence of entities that fall within a gray area that is not covered by current law. Mr. Petersen outlined a few ideas for potential regulation in the areas of governance, enforcement, and finances, but he said that the overall regulatory structure since the passage of SB 1127 (2021, Special Session I) works very well.

### **Presentation: Charitable Gaming Board**

*Chuck Lessin, Chairman*

Mr. Lessin addressed the Subcommittee, speaking on his own behalf, rather than on behalf of the Charitable Gaming Board (the Board). Mr. Lessin stated that lobbyists for the casino and skill game industries have proposed a narrative that states charitable gaming is cutting into their business. He disputes this narrative. He said that while nonprofit organizations have never tried to stifle for-profit gaming, the for-profit gaming industry has tried to roll back the types of games that are available to nonprofit organizations. He emphasized that charitable gaming provides a more communal social experience for people than for-profit gaming.

Next, Mr. Lessin addressed the Subcommittee's discussion at prior meetings on regulations governing the conduct of Texas Hold'em games. He stated that the enabling legislation (Chapter 982, 2020 Acts of Assembly) directed the Board, not VDACS, to write the regulations. The Board held 13 meetings that were open to the public. The Office of the Attorney General approved the Board-written regulations, despite suggestions from members of the public that they allow an unauthorized type of gameplay. Mr. Lessin concluded by requesting that the General Assembly would not open up Virginia to forms of for-profit gaming while simultaneously imposing more restrictions on charitable gaming.

### **Public Comment**

Steven Skaist, principal at the Office of Strategy and Counsel, introduced himself as an attorney for several Virginia charities. He asked the Subcommittee, as it reviews the regulatory structure for charitable gaming, to consider that while the laws governing nonprofits are nuanced, organizations are generally compliant and are not manipulating them. He believes that policymaking concerning nonprofit laws should have the same level of nuance. According to Mr. Skaist, some people think that limiting charitable gaming is a shortcut to rooting out illicit activity. However, this shortcut would limit the ability of charitable organizations to raise money for charity, he said. He urged the Subcommittee to provide sufficient funding for enforcement while also making opportunities available for organizations to conduct legal charitable gaming.

### **Next Meeting**

Delegate Krizek announced that staff will poll Subcommittee members on their availability so that the next meeting can be held in October.

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

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