

The Evolution of Legal Gambling in Virginia: From Bingo to Online Betting

- By Delegate Paul Krizek to the Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission.

Introduction

Virginia's gambling landscape has witnessed significant transformation throughout its history, reflecting changing social attitudes and the state's evolving economic and legislative priorities. From humble beginnings with charitable gaming and bingo in the early 1970s, the state's legal gambling industry has grown into a multifaceted ecosystem, encompassing everything from horse racing and lotteries to historical horse racing (HHR) machines, casinos and online sports betting.

Colonial Gaming in Virginia

Since Colonial days limited gambling, such as lotteries and wagering on horse races, was commonplace and generally permitted, but Virginia has had a longstanding public policy against organized gambling with the first law rendering most gaming illegal enacted in 1740. A little over a century later, in 1850, an anti-lottery provision was added to the Virginia Constitution prohibiting any future lottery from being authorized by law, and prohibiting the buying, selling or transferring of tickets or chances in any lottery not authorized by state law at the time the constitutional amendment was ratified. Despite these different prohibitions on gambling, gambling in your own home has never been prohibited and is expressly allowed pursuant to § 18.2-334 of the Code of Virginia.

Early Years: Charitable Gaming Takes Root

The history of modern legalized gambling in Virginia can be traced back to 1971 when the Virginia Constitution was amended to remove the prohibition on lotteries. This constitutional amendment effectively left it up to the General Assembly to determine whether to permit lotteries in the Commonwealth. Subsequently, the General Assembly authorized charitable gaming in 1973, a state lottery in 1987, and pari-mutuel wagering on horse racing in 1988; however, the implementation of a state lottery and horse race wagering were made contingent on an affirmative vote in a statewide referendum. The 1973 legislation authorizing charitable gaming as a legal form of gambling allowed local governments to regulate nonprofit organizations in conducting certain forms of gambling for fundraising purposes. Initially, nonprofit organizations were permitted to conduct bingo and raffles as fundraising tools. These early efforts aimed to provide a legal means for

charitable and nonprofit organizations to raise funds for their various causes and missions. However, the result of local level regulating led to inconsistency from one locality to another and unclear licensing requirements and almost nonexistent financial reporting. Moreover, very little of the money raised by charitable gaming went to charity. Due to this lack of local government oversight, a legislative joint subcommittee was mandated by the General Assembly to study charitable gaming operations around the state, hold hearings, and consider whether changes in charitable gaming laws and regulations were necessary. The work of this joint subcommittee led to the legislation that established the Charitable Gaming Commission in 1996, which was responsible for regulating charitable gaming. That was not the last time the General Assembly had to empower a special subcommittee to look into Charitable Gaming.

In response to a 2002 JLARC study, the General Assembly passed SB1278 in 2003, dissolving the Charitable Gaming Commission, a supervisory board, and replacing it with the Department of Charitable Gaming and the Charitable Gaming Board, a policy board within the state government's executive branch. The Charitable Gaming Board was entrusted with the task of promulgating regulations, which were then administered by the Department. In 2008, the General Assembly enacted HB1280/SB199 to disband both the Department of Charitable Gaming and the Board, transferring oversight of charitable gaming to VDACS (Office of Charitable and Regulatory Programs). In 2015, the General Assembly passed SB1309, altering the composition of the Charitable Gaming Board from nine Governor's appointees to 11 appointees, including six appointed by the Governor, three by the Speaker of the House, and two by the Senate Rules Committee.

The Introduction of Virginia Lottery and Horse Racing

Charitable gaming remained the sole legal form of gambling in Virginia until the creation of the Virginia Lottery in 1987. Unclaimed lottery prizes initially funded the Virginia Literary Fund, but in 1999, the General Assembly allocated all lottery proceeds to K-12 public education. A 2000 ballot measure enshrined this dedication to education in the Virginia Constitution.

In 1988, betting on horse races was legalized after voters approved pari-mutuel wagering in a public referendum, leading to the construction of Colonial Downs in New Kent County in 1997. This venue hosted thoroughbred and harness races during the summer, and licensed off-track betting facilities were established in several Virginia cities.

Challenges for Charitable Gaming

The emergence of pari-mutuel wagering and the Virginia Lottery began to negatively affect charitable gaming. Charities saw a decline in fundraising returns, leading to concerns about their financial sustainability. To address this, the General Assembly added language to the charitable gaming law in 2010, allowing the use of electronic pull-tab machines. These were modern electronic devices that resembled video gaming machines and provided a much-needed boost to fundraising for charities. No longer was your local fraternal organization relying on old fashioned paper games, like pull tabs, bingo, raffles, etc... The hope was that with these new electronic games a younger generation would be enticed into joining the membership of these qualified organizations (e.g. fraternal associations, volunteer fire departments, and veterans organizations.) In 2013, the General Assembly added language to the charitable gaming law to allow network bingo, which allowed participating charities throughout the state to play a statewide bingo game for a chance at a large prize in hopes of attracting new players.

In 2014, the General Assembly added language to the charitable gaming law to increase the frequency of house raffles by a charity from one per year to one per a geographical region of the Commonwealth to assist it in raising more funds. The new language also allowed charities to reimburse travel expenses for its bingo volunteers to attract more volunteers and allowed charitable organizations to reschedule their bingo games if they were cancelled due to inclement weather. Prior to the new rescheduling language, they were limited to conducting bingo games for no more than two days per week. In 2020, the General Assembly removed restrictions to allow the charitable organizations to conduct an unlimited number of bingo games per week and to conduct bingo anywhere in the Commonwealth overturning prior restrictions limiting them to their locality or to an adjacent county or city. The General Assembly also increased the number of electronic pull-tab machines from nine to 18 for charitable organizations interested in offering them to their members and guests.

Historical Horse Racing

In 2014, a dispute between the owner of Colonial Downs and Virginia horsemen led to the closure of the New Kent track. However, in 2018, the General Assembly legalized slot-like historical horse racing (HHR) machines in a bid to revive live horse racing in Virginia. Colonial Downs introduced the first Rosie's Gaming Emporium branded HHR venue in Richmond in 2019. The Virginia Racing Commission (VRC) is now responsible for regulating not just horse racing but the over 2,700 HHR machines (with 2,300 yet to be placed) in seven Rosie's locations (can have up to ten locations) throughout the Commonwealth.

iLottery, Sports Betting, and Casinos

The year 2018 also saw the introduction of the Virginia Lottery's mobile app, allowing players to purchase tickets at lottery retailers via Bluetooth. In 2019, the app was enhanced, and in 2020, iLottery was launched, enabling players to engage in multiple online games. 2020 marked a significant turning point for gambling in Virginia as the General Assembly also legalized online sports betting and casinos, allowing five localities, after passage of local referenda, to host full-scale resort casinos that made significant investments of over \$300 million and more in their infrastructure. All of these forms of gaming, casinos, sports betting and lottery sales are regulated by the Virginia Lottery.

Texas Hold'em and Recent Reforms

As gambling options in Virginia expanded rapidly, charities faced increased competition for their members' attention. In response, the General Assembly enacted legislation in 2020, increasing the number of electronic pull tab machines allowed per location and allowing charitable organizations to host Texas Hold'em tournaments.

However, the General Assembly's efforts to level the playing field between charitable gaming, trying to assist the equine industry with the HHR expansion, and the five new casino opportunities led to the General Assembly once again standing up a Legislative Subcommittee in 2021 to examine the state of charitable gaming law. Subsequently, the years 2021 and 2022 witnessed significant changes in charitable gaming legislation. Sweeping reforms were introduced by the General Assembly to address issues of malfeasance arising from certain operators in the charitable gaming sector. These changes affected rules and regulations, effectively freezing the expansion of charitable gaming until a comprehensive review could be conducted.

Further reforms in 2022 sought to provide more clarity regarding which organizations could use electronic pull-tab machines, establish a comprehensive financial reporting regime, and mandate permits from the Department of Agriculture and Consumer Services (VDACS) for all charitable gaming. The Charitable Gaming Board's role transitioned from regulatory to advisory, with full regulatory authority vested in VDACS.

Future Action

The General Assembly passed House Joint Resolution 548 establishing this joint subcommittee on gaming during the 2023 session. Legal gaming has expanded rapidly in Virginia, where it once was mostly limited to raising money for charitable purposes. The

General Assembly recognizes this and has tasked this committee with ensuring that effective regulation is a priority. Indeed, effective regulation must be the core component of whatever gaming agency structure we choose to put forward. Likewise, we must include attention to a uniform and robust problem gambling prevention and treatment effort.

(Problem gambling affects approximately 2-3% of US adults, or 4-6 million people. Problem gambling is treatable, and treatment is effective in minimizing harm to both individuals and society. If you or somebody you know is struggling with gambling addiction, please visit www.vcpvg.net to chat online, or call or text this confidential and toll-free 24/7 helpline: 1-888-532-3500).

I trust this chronicle of Virginia's legal gambling history aids the committee's deliberation on the road ahead.

Thank you.