

Virginia Department of Charitable Gaming



2006 Annual Report to the
Governor and General Assembly

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, 2005 to June 30, 2006, Fiscal Year 2006.

Introduction

The Department of Charitable Gaming (the Department) has just completed its third 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 over \$317 million for FY 2005, 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 FY 2005. 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 producing well over \$400 million in gross sales per year.

In FY 2005, nearly \$48 million, or 13.5% 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 51% went to charity.

An analysis done by the Department for FY 2005 found that nearly 28% 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 that provides that any organization that fails 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

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

Financial Statement of the Department

For FY 2006, the Department collected **\$3,266,400** 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 \$174,600 from permit application fees and \$91,800 from late fees on quarterly and annual financial reports not filed on time.

The Department had a general fund appropriation of **\$2,635,578** for FY 2006. The Department expended \$2,635,573.75 during FY 2006 leaving a year end balance of \$4.25. 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 **\$630,826** that was deposited to the general fund.

Administration

The reforms instituted by SB 1278 (2003) has evolved the Department's structure into four operational units; Audit, Enforcement, Licensing, 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

There are currently 503 organizations within the Commonwealth of Virginia that possess a permit authorizing them to conduct charitable gaming. Of these, 422 are permitted to conduct bingo, instant bingo and raffles as part of their scheduled bingo activities. There are 81 qualified organizations that are permitted to conduct stand alone raffles. The Department has also issued 20 permits to suppliers authorizing them to exclusively sell gaming supplies to non-profit organizations wishing to conduct charitable

gaming within the State. Permits are issued to both qualified organizations and suppliers on an annual basis.

The Licensing Unit is responsible for initiating regulatory action should a qualified organization and/or supplier be found in violation of the charitable gaming statutes/regulations. During FY 2006, the Department implemented action against 14 organizations not complying with State requirements. Of these, eleven consent orders were initiated with organizations resolving statutory and regulatory violations. The Administrative Process Act was utilized with the intent of revoking the charitable gaming permit for the remaining three permitted organizations. Final dispositions resulted in consent orders with two organizations outlining required corrective actions. An alternative strategy was utilized with the remaining organization by utilizing the Administrative Dispute Resolution Act as a non-adversarial approach which encouraged the organization to correct outstanding deficiencies.

Inspection and Gaming Training

On-site inspection of gaming operations is a crucial element of the regulatory process. During FY 2006, the Department completed 1,240 inspections (as compared to 491 in 2005) and is continuing to work towards meeting its goal of inspecting every bingo game a minimum of four times per year. The increase in the number of inspections conducted during the FY 2006 were due to the Department's hiring of three additional inspectors, bringing the composition of the inspection staff to five full-time inspectors and two part-time inspectors.

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 2006, the Department held a total of 110 game management training sessions (as compared to 97 in 2005), which included 27 regional training sessions, 9 bingo caller/bingo manager training sessions, 42 sessions for organizations new to gaming or requesting assistance and 32 sessions specific to organizations' needs as identified in an audit or inspection.

Audits

The Department completed a total of 158 audits of charitable gaming operations during FY 2006. This compares to 136 audits completed by the Department 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 2006 found over \$3.9 million in unreported gross gaming sales. These findings support over \$400,000 in additional funds required to be used for charitable purposes and over \$40,000 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 2006 the Enforcement Unit opened 91 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. Investigations the Department participated in or completed resulted in seven successful prosecutions for a variety of criminal violations throughout the State. Some of the notable cases investigated include:

Wylliesburg – One individual was convicted in the Charlotte County Circuit Court, of one count of embezzlement, originally charged with 19 felony counts of embezzlement of funds from a volunteer fire department's bingo games. Subject was ordered to make restitution in the amount of \$62,621.48 and sentenced to 15 years, suspended.

Virginia Beach – One individual was convicted in Virginia Beach Circuit Court of one count of embezzlement of funds from a fraternal organization and was sentenced to 3 years, suspended, and ordered to make restitution of \$10,000.00. Also convicted of one count of embezzlement of funds from a charitable organization's bingo game, sentenced to 12 months in jail, suspended, and ordered to perform 400 hours community service.

Martinsville - An individual was convicted in Henry County Circuit Court of one count of embezzlement, stealing funds generated from a charitable organization's bingo game. The individual was sentenced to 5 years, suspended. Restitution was ordered in the amount of \$10,978.61.

Staunton – An individual was indicted by a Federal Grand Jury in the Western District of Virginia and charged with five counts of mail fraud, one count identity theft and one count of credit card fraud all involving funds generated from charitable gaming.

Virginia Beach – An individual was arrested and convicted in Virginia Beach General District Court of violating § 18.2-416, curse and abuse a charitable gaming employee while in the performance of their duties and fined \$60.00 plus \$71.00 court costs.

Charitable Gaming Regulations

SB 1278 (2003) required the Charitable Gaming Board to examine the current regulations and develop a plan regarding regulatory action. This plan was reported to the Governor and the General Assembly in a report dated December 2, 2003. The Board is now in the process of implementing this plan. In the spring of 2004 the Board held a series of nine focus group meetings throughout the Commonwealth to receive public input. At their June 2004 meeting, the Board approved the Notice of Intended Regulatory

September 15, 2006

Action. Between June and December 2004, the Board developed the proposed new regulations and at their December 2004 meeting, approved the proposed regulations. The regulations were published for public comment in the spring of 2005. Public comment was reviewed by the Board at their June 2005 meeting. On September 13, 2005, the Board adopted the regulations as final. The final regulations were published in *The Virginia Register of Regulations* and became effective January 1, 2006.

Recommendations for Legislation

The Department and the Charitable Gaming Board have been reviewing the charitable gaming statutes, § 18.2-340.15, et seq. for the past two years and have identified several issues. The Board appointed a committee to develop specific statutory recommendations to the General Assembly. The Board formally adopted the committee's recommendations and endorsed a legislative package at their September, 2005 meeting. The legislative proposal, 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. The Department has no legislative recommendations for the 2007 General Assembly.