

Appendix F: Lottery, Charitable Gaming, and Horse Racing in Virginia

While most forms of gaming are illegal in Virginia, statute currently authorizes three forms of gaming: state-run lottery, charitable gaming, and horse racing wagering. Each of these three forms of gambling are governed by a different body and overseen by a different state agency.

Virginia Lottery

The Virginia Lottery was established in 1987 to generate funds for Virginia’s K–12 public education system. The Virginia Lottery is governed and regulated by the Virginia Lottery Board, composed of five members appointed by the governor. The Code of Virginia established the Virginia Lottery as an independent agency of state government responsible for operating a gaming industry within the confines of state statute.

The Virginia Lottery offers games of chance for sale across the Commonwealth. Virginia lottery products are sold statewide by licensed sales agents. Although the Virginia Lottery is not permitted to sell lottery tickets to consumers over the internet, it does offer an online prepaid subscription service for the purchase of some lottery tickets, such as daily drawings and multi-state jackpot games. Additionally, in April 2019, the Virginia Lottery introduced “Mobile Play,” a digital platform that allows players to purchase some games through a smart phone application that connects to a lottery sales terminal via Bluetooth when the player is physically located on the premises of a licensed lottery retailer.

The Virginia Lottery has traditionally sold three main types of products: daily draw games, scratch-off tickets, and multi-state jackpot games. The introduction of the Mobile Play app has allowed the lottery to introduce a fourth type of product, e-games (Table F-1).

TABLE F-1
Lottery products in the Commonwealth

Lottery product types	Description	Cost per ticket	Examples
Daily draw games	Players purchase a lottery ticket with a combination of numbers. Drawings are held on a daily basis to determine winning number combinations	0.25 - 1	Cash 5, Pick 4, Pick 3
Scratchers, scratch-offs, or instant tickets	Lottery ticket where player scratches off a latex coating revealing letter, numbers or symbols, indicating if the player won	1 - 30	Triple Your Money, Weekly Grand, Combo Play
Multi-state jackpot games	Lottery games offered in multiple jurisdictions to allow for larger prizes	2	Powerball, Mega Millions, Cash4Life
E-games via MobilePlay	Lottery games purchased for immediate play on a smartphone device	0.50 - 10	Tropical 8s, Bop Dice, Lucky Falls

SOURCE: North American Association of State and Provincial Lotteries, “Glossary of Lottery Terms.” Virginia Lottery.

NOTE: Virginia Lottery offers an online prepaid subscription service for the purchase of some lottery tickets such as daily drawings and multi-state jackpot games.

The Virginia Lottery Board governs the operations of the state lottery

The Virginia Lottery Board is composed of five members appointed by and serving at the pleasure of the governor. Statute does not require that Lottery Board members have any specific background, but it does require that members provide a public official surety bond prior to serving on the board. This type of bond provides a financial guarantee that a public official will perform his or her duties faithfully and honestly.

The Lottery Board is a policy board that is vested with the authority to adopt regulations governing the establishment and operation of the Virginia Lottery. Statute directs the board to adopt regulations specifying the types of games conducted, price of tickets, numbers and sizes of prizes, odds of winning, proportion of revenues disbursed as prizes versus returned to the Commonwealth, how winners are selected, how prizes will be paid to winners, the frequency of drawings, types of locations where tickets are sold, ticket sales methods, advertisement methods, how sales agents will be licensed, amount and type of compensation paid to sales agents, and any other matters related to the operation and administration of the lottery.

Procedurally, the Lottery Board is subject to the Virginia Administrative Process Act for the process used to adopt regulations. The Virginia Administrative Process Act sets out steps and timelines that Virginia agencies and their governing boards are required to use for establishing and adopting regulations. The Virginia Lottery’s existing regulatory framework addresses three topics: (1) administrative processes used by the Board and agency, (2) licensing lottery sales agents, and (3) lottery game rules (Table F-2).

**Table F-2
Virginia Lottery regulatory topic areas**

Administrative processes used by the board and agency	How the Lottery Board will conduct its business, including conducting meetings, appointing subcommittees, and hearing appeals to licensure decisions.
Licensing lottery sales agents	Eligibility requirements, application procedures, licensure standards, bonding requirements, license fees, licensee standards of conduct, licensee conduct, inspections, financial processes, audits, and license termination.
Lottery game rules	Detailed rules regarding lottery games, their prizes, odds of winning, prices for games, how and when games are sold, how prizes are claimed, and unclaimed prizes.

SOURCE: North American Association of State and Provincial Lotteries, “Glossary of Lottery Terms.” Virginia Lottery.

The Virginia Lottery is an independent agency of state government funded by lottery proceeds

The Code of Virginia establishes the Virginia Lottery as an independent agency of state government, which is exclusive of the legislative, executive, or judicial branches of government. Although the lottery is established as an independent agency, the agency director and board members are appointed by and serve at the pleasure of the governor. Statute requires that any candidate for director of the Virginia Lottery undergo a thorough background investigation by the Virginia State Police and post a public official surety bond.

As opposed to the other Virginia gaming agencies that are regulating a gaming industry, the Virginia Lottery is running a state-operated gaming industry, within the confines of state statutes. The lottery’s

activities are fundamentally different from the activities of the Virginia Racing Commission (VRC) and Office of Charitable and Regulatory Programs (OCRP). VRC and OCRP license and oversee organizations and individuals that participate in legal gaming activity through either horse race wagering or charitable gaming. The lottery is operating its own gaming activity through developing, selling, and administering lottery games.

The Virginia Lottery is a large state agency that is authorized to employ up to 308 full-time employees. As a large state agency, the lottery has functional areas that are typically found in state agencies, such as administration, finance, and information technology. In addition, the lottery has large functional areas responsible for running the business of the lottery, which include sales, marketing, and digital. Because of the sensitive nature of the lottery business and the large quantities of money involved, lottery has several areas dedicated to audits and security, including an internal audits unit, an investigations unit, an information security unit, and a security operations unit.

The lottery agency's operations are funded from lottery proceeds. The cost of lottery operations, excluding sales agent compensation, may not exceed 10 percent of the total annual estimated gross revenues generated by sales. Even though lottery's operations are funded by the proceeds it generates, as a state agency, lottery still receives a budget appropriation to authorize its annual spending. The lottery's appropriated budget for FY18 was \$99.6 million in FY18.

Charitable gaming in the Commonwealth

Charitable gaming is permitted in the Commonwealth to raise funds to support qualified charitable organizations. Charitable gaming is governed by the Charitable Gaming Board and regulated by the Office of Charitable and Regulatory Programs (OCRP) at the Virginia Department of Agriculture and Consumer Services (VDACS). Statute limits the types of games that organizations may offer for charitable gaming to bingo, electronic bingo devices, instant bingo, seal cards, paper or electronic pull tabs, network bingo, or raffles (Table F-3).

TABLE F-3
Types of charitable games permitted in the Commonwealth

Bingo	A game of chance played with individual cards having randomly numbered squares ranging from 1 to 75
Electronic bingo devices	Computer devices that bingo players can use to play many bingo cards at one time. Device can allow for manual or automatic daubs (stamps) on bingo cards as numbers are called.
Instant bingo, seal cards, or paper pull tabs	Game of chance played by the random selection of one or more individually prepacked cards with winners determined by the preprinted appearance of concealed letters, numbers, or symbols
Network bingo	Specific bingo game in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network and where the prize is awarded based on a percentage of the total amount of network bingo cards sold
Raffles	Lottery in which a prize is won by a random drawing
Stand-alone electronic pull tabs	Game of chance played by the random selection of one or more pull tabs on a screen with winning determined by the predetermined appearance of concealed letters, numbers, or symbols. These devices are in a stand-alone cabinet and may resemble a traditional slot machine.
Handheld electronic pull tabs	Game of chance played by the random selection of one or more pull tabs on a screen with winning determined by the predetermined appearance of concealed letters, numbers, or symbols. These devices are in a handheld tablets and the games may resemble slot machine type games.

SOURCE: Code of Virginia §18.2-340.22

The Virginia General Assembly first authorized charitable organizations to conduct bingos and raffles in 1973. Prior to that time, gambling was prohibited in the Commonwealth. Local governments were authorized to regulate charitable gaming activities until 1996. Because of a series of allegations of wrongdoing in the early 1990s, the General Assembly established a state Charitable Gaming Commission which began state oversight of charitable gaming on July 1, 1996. In response to a JLARC study and findings, the General Assembly eliminated the Charitable Gaming Commission and established a Department of Charitable Gaming with a policy board, the Charitable Gaming Board, effective July 1, 2003. In 2008, the General Assembly incorporated the Department of Charitable Gaming into the Virginia Department of Agriculture and Consumer Services, and maintained the Charitable Gaming Board.

The Charitable Gaming Board oversees charitable gaming

Statute vests the Charitable Gaming Board with the power to promulgate regulations relating to charitable gaming, and vests VDACS with the control of charitable gaming. Statutes and regulations limit the types of organizations that may conduct games, when games may be conducted, how frequently organizations may conduct games, how games are conducted, and where games are conducted.

The Charitable Gaming Board consists of 11 members—six members appointed by the governor, three members appointed by the Speaker of the House of Delegates, and two members appointed by the Senate Committee on Rules. Statute sets out background requirements for each seat on the

Charitable Gaming Board. These requirements ensure that the board is made up of individuals with experience belonging to organizations that conduct charitable gaming, individuals who supply charitable organizations with gaming equipment, individuals who own, lease, or rent property used for charitable gaming, and law enforcement. Finally, five seats must be occupied by individuals who do not have any interest in charitable gaming.

The Charitable Gaming Board is considered a policy board because it is specifically charged by statute to promulgate regulations and advise the OCRP; however, the board is not responsible for supervising the OCRP or employing personnel. In addition to promulgating charitable gaming regulations, statute also directs the board to advise OCRP on the conduct of charitable gaming and recommend statutory changes as necessary.

OCRP staff conduct day-to-day administration of charitable gaming

OCRP is a unit within the Virginia Department of Agriculture and Consumer Services (VDACS) that is charged with administering charitable gaming regulations, including the issuing and renewing of licenses, on-site training, inspections, financial reviews, and compliance audits. OCRP staff issue licenses to organizations involved in charitable gaming, provide trainings to organizations on complying with charitable gaming requirements, conduct financial records reviews, and conduct on-site inspections of games and organizations. The OCRP employs approximately 25 full-time employees in three different units to administer charitable gaming: charitable programs (13 employees), auditing and financial reviews (five employees), and inspections (five employees). However, these 25 employees regulate other industries in addition to charitable gaming, including charitable solicitations, extended service contract providers, fantasy contests, home service contracts, health clubs, membership campgrounds, prepaid legal service plan sellers, and travel clubs.

OCRP is funded through a General Fund appropriation, which has been reduced in the past few years. In 2014, OCRP's appropriation was \$1.47 million. By 2018, the appropriation had been reduced by 26 percent to \$1.08 million.

OCRP collects fees from organizations and individuals participating in charitable gaming. The fee is 1.125 percent of all sales made by a licensed organization. Each organization conducting charitable gaming must also pay \$200 for an annual permit (unless the organization is exempt under state statute). Additionally, any individual being paid to act as a bingo caller or bingo manager must register with OCRP and pay a \$75 annual registration fee (volunteers and bingo callers at certain organizations such as volunteer fire departments are exempt from this registration fee). In FY 2018, OCRP collected \$2.69 million in revenue from charitable organizations that was placed in the General Fund, with OCRP being allocated approximately \$1 million from the General Fund to support its operations.

Horse racing wagering in the Commonwealth

Horse race wagering is permitted in the Commonwealth as a means of raising funds to support Virginia's native horse industry. Horse race wagering is governed by the Virginia Racing Commission (VRC). Horse race wagering uses a system of wagering called "pari-mutuel wagering" whereby participants bet on horses to finish in a certain place or places. Bets of the same type are pooled, deductions required or permitted by law are taken out, and winnings are distributed based on amounts wagered. Statute limits the types of wagering allowed to live wagering, simulcast wagering at off-track

betting (OTB) locations, advance deposit account wagering, and historical horse race wagering (Table F-4).

TABLE F-4
Types of horse race wagering permitted in the Commonwealth

Live race wagering	Placing a bet on a live horse race at the facility where the horse race is conducted.
Simulcast wagering at off-track betting locations	Placing a bet on a horse race at a pari-mutuel wagering facility that televises live horse races via simulcast.
Advance deposit account wagering	Establishing an account with an entity to place pari-mutuel wagers electronically. Wagers are made electronically (mobile or internet) or via phone.
Historical horse race wagering	Placing bets on previously conducted horse races through an electronic gaming device that randomly chooses races from a library of hundreds of thousands of previously run horse races.

SOURCE: Code of Virginia §59.1-365

Wagering on live horse racing was authorized in statute in 1988. A locality must pass a voter referendum authorizing pari-mutuel wagering in that locality for live racing or an off-track betting facility to be located there. Currently, at least eleven Virginia localities have passed a referendum and are authorized to host a race track or pari-mutuel site. In 2018, the Virginia General Assembly authorized historical horse racing (HHR) wagering in the Commonwealth. HHR machines are slot-like machines that allow players to wager, with the outcomes of the wagers being dictated by actual results from previously held horse races (for which identifying information is withheld from the player). HHR wagering is only authorized in localities that have passed a referendum allowing pari-mutuel wagering.

Following the authorization of HHR wagering, an investment group purchased Colonial Downs with the intention of offering HHR wagering at the track facility and at some satellite facilities throughout the state, and re-introducing live thoroughbred racing to Colonial Downs (live racing had ceased in 2014). In the first six months since the introduction of HHR terminals in the Commonwealth, wagering on the HHR terminals totaled over \$714 million, generating over \$57 million in net gaming revenue.

TABLE F-6
Horse race wagering locations in Virginia

Facility	Locality	Number of historical horse racing terminals
Live race wagering, simulcast wagering, and historical horse race wagering		
Colonial Downs	New Kent County	600
Simulcast wagering and historical horse race wagering		
Rosie's – Vinton	Roanoke County	150
Rosie's – Richmond	Richmond City	700
Rosie's – Hampton	Hampton City	700
Rosie's – Chesapeake	Chesapeake City	700
Simulcast wagering only (former VEA locations)^a		
Breaker's	Henrico County	--
The Windmill	Henry County	--
Ponies and Pints	Richmond City	--
Buckets	Chesapeake City	--
Proposed locations – Simulcast wagering and historical horse race wagering ^b		
Rosie's – Dumfries	Prince William County	150
Rosie's - Danville	Danville City	150

SOURCE: Virginia Racing Commission and Peninsula Pacific Entertainment.

NOTE: ^a The Virginia Equine Alliance (VEA) opened four satellite off-track-betting facilities in 2016 and 2017. As part of the revenue-sharing agreement between the VEA and the new Colonial Downs owners, the ownership of these facilities is being transferred to Colonial Downs. ^b Under current law, 3,000 total historical horse racing (HHR) terminals are allowed in the Commonwealth. If the Colonial Downs eventually opens both the Dumfries and Danville locations (which were approved by local referendums in November 2019), they will need to reduce the number of terminals at one of their other locations to stay within the limit or the law will need to change to increase the number of terminals allowed in the state. Additionally, current law limits the number of licenses for pari-mutuel wagering to 10 facility licenses. If Colonial Downs eventually opens both the Dumfries and Danville locations, they will need to remove wagering from one of the existing locations or regulations will need to change.

Five HHR locations have opened or are planned (Table F-6). Colonial Downs reopened with 600 HHR terminals in April 2019. An HHR location opened in Vinton (Roanoke County) with 150 HHR terminals in May 2019. A third HHR location opened in Richmond with 700 HHR terminals in July 2019. The Colonial Downs owner plans to open a fourth HHR location in Hampton and fifth location in Chesapeake. These five locations and their number of gaming terminals were modeled by The Innovation Group as part of their analysis of gaming in Virginia.

In addition to these five locations, the Colonial Downs owner has also expressed interest in eventually opening HHR locations in Danville and Dumfries. A referendum was held in November 2019 and was approved by voters in both localities.

Virginia Racing Commission oversees horse racing and pari-mutuel wagering

Statute vests the Virginia Racing Commission (VRC) with the power to promulgate regulations relating to horse racing and pari-mutuel wagering, and it also vests the VRC with the control of horse racing. Statutes and regulations limit where horse race wagering can occur, who requires licensing to participate in the horse racing industry, how licensing is conducted, types of bets that may be made, how bets are taxed, how tax proceeds are distributed, and types of equipment that may be used.

The VRC consists of five members. The governor appoints all five members of the VRC and both chambers of the General Assembly must approve the appointments. Statute requires VRC members to have been a resident of the Commonwealth for at least the three years preceding their appointments, and they must maintain residency in the Commonwealth for the duration of their term. Statute also imposes several ethical requirements on VRC members including:

- prohibiting commission members and their immediate family members from having any direct or indirect financial interest in any horse racetrack, satellite facility, or any other entity regulated by the VRC;
- prohibiting commission members and their immediate family members from participating as an owner of a horse or a contestant in any race subject to the jurisdiction of the VRC; and
- prohibiting commission members and their immediate family members from making contributions to any candidate for office at the state or local level.

Statute vests the VRC with broad powers. The VRC is considered a supervisory board because it is responsible for agency operations and appoints the agency director. Statute also directs the VRC to encourage participation in horse racing.

VRC staff conduct day-to-day operations to ensure the integrity of horse racing and horse race wagering in the Commonwealth

VRC staff play several roles in ensuring the integrity of horse racing and horse race wagering in the Commonwealth. First, the staff provides assistance to commissioners in drafting and promulgating regulations related to horse racing and horse race wagering. Second, the staff licenses and permits all individuals participating in horse racing and horse race wagering in Virginia. This work has expanded with the General Assembly's authorization of HHR wagering in 2018. In addition to licensing all wagering facilities, the VRC staff must now license facilities with HHR terminals and ensure that those terminals meet regulatory requirements. Third, the staff monitors and ensures that horse races conducted in Virginia follow applicable rules and regulations. This includes operating a test barn at each race and randomly testing horses to ensure that illegal performance enhancing drugs were not used.

VRC's operations are funded from the proceeds of taxes that the Commonwealth imposes on pari-mutuel wagering. The 2018 Appropriations Act authorized the VRC to spend \$3.2 million, but the agency spent only \$1.8 million. Currently, VRC has three full-time employees, including the Executive Secretary, and three part-time employees. VRC recently added one part-time position for an HHR compliance specialist. VRC also employs another 25 staff on a seasonal basis (approximately 12 weeks per year) to assist in facilitating live racing events.

