

No: 312

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

Committee Substitute for
SENATE BILL NO. 312

(By Mr. Boether)



PASSED March 10, 1984

In Effect 11/21/84 1985 from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 312
(MR. BOETTNER, *original sponsor*)

[Passed March 10, 1984; in effect ninety days from passage.]

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-one, relating to the authorization of charitable raffles; specifying the legislative intent; definitions; specifying when raffle may be conducted without a license; establishing procedure for licensure through the state tax commissioner; providing for annual and limited occasion licenses; setting forth restrictions and limitations with respect to such licenses; establishing license fees; exempting raffle occasions from other fees and taxes; specifying the information required to be submitted for the license application; permitting the amendment of any such license under certain circumstances; authorizing any licensee to adopt rules and regulations governing the conduct of raffle occasions; establishing limitations on the value of raffle prizes which may be awarded; prohibiting certain prizes; prohibiting compensation to individuals who assist in conducting raffle occasions; authorizing concessions in connection with raffle occasions; providing certain conditions and limitations with respect to such concessions; relating to the payment of rent or other fees for the use of

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premises in conducting raffle occasions; providing conditions and limitations with respect to the use of such premises; providing for the payment of expenses from the gross proceeds of raffle occasions; providing for the disbursement of net proceeds from raffle occasions; requiring that certain records be maintained by licensees; authorizing the state tax commissioner to perform an audit of such records; permitting the advertisement of raffle occasions; setting forth criminal offenses; providing for criminal penalties; authorizing the state tax commissioner to promulgate rules and regulations to administer the provisions of this article; when a license may be denied, revoked, or suspended; relating to notice of revocation or suspension; establishing a procedure for a hearing; providing for judicial review of the commissioner's order; specifying when the commissioner may issue an emergency order suspending a license; requiring every licensee to file financial reports; requiring the filing of a license in the office of the clerk of the county commission of the county in which the raffle occasions are to be held; providing that the license application shall be made available for public inspection; authorizing a county option election to determine whether charitable raffles should continue to be held in such county; setting forth the requirements and procedures for any such county option election; prohibiting certain persons from participating in any raffle activities; providing restrictions on the use of raffle equipment; establishing that net proceeds of any state fair raffle occasion are considered used for charitable or public service purposes; setting forth the procedure for the issuance of a state fair raffle license; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

Law That chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-one, all to read as follows:

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-1. Legislative intent.

1 The Legislature, in recognition of the need charitable and

2 public service organizations have for a practicable way of
3 raising funds, declares its intent to grant the privilege of
4 holding raffles to those organizations which qualify as
5 provided in this article.

§47-21-2. Definitions.

1 For purposes of this article, unless specified otherwise:

2 (a) "Charitable or public service activity or endeavor"
3 means any bona fide activity or endeavor which directly
4 benefits one or more people by:

5 (1) Contributing to educational or religious purposes; or

6 (2) Relieving them from disease, distress, suffering,
7 constraint or the effects of poverty; or

8 (3) Increasing their comprehension of and devotion to
9 the principles upon which this nation was founded and to
10 the principles of good citizenship; or

11 (4) Making them aware of or educating them about
12 issues of public concern so long as the activity or endeavor is
13 not aimed at supporting or participating in the campaign of
14 any candidate for public office; or

15 (5) By lessening the burdens borne by government or
16 voluntarily supporting, augmenting or supplementing
17 services which government would normally render to the
18 people; or

19 (6) Providing or supporting nonprofit community
20 activities for youth, senior citizens or the disabled; or

21 (7) Providing or supporting nonprofit cultural, musical
22 or artistic activities.

23 (b) "Charitable or public service organization" means a
24 bona fide, not for profit, tax-exempt, benevolent,
25 educational, philanthropic, humane, patriotic, civic,
26 religious, fraternal or eleemosynary incorporated or
27 unincorporated association or organization; or a volunteer
28 fire department, rescue unit or other similar volunteer
29 community service organization or association; but does
30 not include any nonprofit association or organization,
31 whether incorporated or not, which is organized primarily
32 for the purposes of influencing legislation or supporting or
33 promoting the campaign of any candidate for public office.

34 (c) "Commissioner" means the state tax commissioner.

35 (d) "Concession" means any stand, booth, cart, counter
36 or other facility, whether stationary or movable, where

37 beverages, both alcoholic and nonalcoholic, food, snacks,
38 cigarettes or other tobacco products, newspapers, souvenirs
39 or any other items are sold to patrons by an individual
40 operating the facility. Notwithstanding anything contained
41 in subdivision (2), subsection (a), section twelve, article
42 seven, chapter sixty of this code to the contrary,
43 "concession" includes beverages which are regulated by
44 and shall be subject to the provisions of chapter sixty of this
45 code.

46 (e) "Conduct" means to direct the actual holding of a
47 raffle by activities including, but not limited to, handing
48 out tickets, collecting money, drawing the winning
49 numbers or names, announcing the winning numbers or
50 names, posting the winning numbers or names, verifying
51 winners and awarding prizes.

52 (f) "Expend net proceeds for charitable or public
53 service purposes" means to devote the net proceeds of a
54 raffle occasion or occasions to a qualified recipient
55 organization or as otherwise provided by this article and
56 approved by the commissioner pursuant to section fifteen of
57 this article.

58 (g) "Gross proceeds" means all moneys collected or
59 received from the conduct of a raffle or raffles at all raffle
60 occasions held by a licensee during a license period; this
61 term shall not be deemed to include any moneys collected or
62 received from the sale of concessions at raffle occasions.

63 (h) "Joint raffle occasion" means a single gathering or
64 session at which a series of one or more successive raffles is
65 conducted by two or more licensees.

66 (i) "Licensee" means any organization or association
67 granted an annual or limited occasion license pursuant to
68 the provisions of this article.

69 (j) "Net proceeds" means all moneys collected or
70 received from the conduct of a raffle or raffles at occasions
71 held by a licensee during a license period after payment of
72 the raffle expenses authorized by sections eleven, thirteen
73 and fifteen of this article; this term shall not be deemed to
74 include moneys collected or received from the sale of
75 concessions at raffle occasions.

76 (k) "Person" means any individual, association, society,
77 incorporated or unincorporated organization, firm,
78 partnership or other nongovernmental entity or institution.

79 (l) "Patron" means any individual who attends a raffle
80 occasion other than an individual who is participating in
81 the conduct of the occasion or in the operation of any
82 concession, whether or not the individual is charged an
83 entrance fee or participates in any raffle.

84 (m) "Qualified recipient organization" means any bona
85 fide, not for profit, tax-exempt, as defined in subdivision (p)
86 of this section, incorporated or unincorporated association
87 or organization which is organized and functions
88 exclusively to directly benefit a number of people as
89 provided in subparagraphs (1) through (7), subdivision (a)
90 of this section. "Qualified recipient organization" includes
91 without limitation any licensee which is organized and
92 functions exclusively as provided in this subdivision.

93 (n) "Raffle" means a game involving the selling of
94 tickets to participate in such game, certain among which, as
95 determined by drawing after the sale, entitle the holder or
96 holders to a prize or prizes.

97 (o) "Raffle occasion" or "occasion" means a single
98 gathering or session at which a series of one or more
99 successive raffles is conducted by a single licensee.

See 100 (p) "Tax-Exempt" association or organization means
101 an association or organization which is, and has received
102 from the "Internal Revenue Service" a determination letter
103 that is currently in effect stating that the organization is,
104 exempt from federal income taxation under subsection
105 501(a) and described in subsection 501(c) (3), 501(c) (4), 501
106 (c) (8), 501(c) (10), 501(c) (19) or 501(d) of the "Internal
107 Revenue Code."

§43-21-3. Authorizing the conduct of certain raffles without a license.

1 Notwithstanding any other provisions of this article to
2 the contrary, any charitable or public service organization
3 which has been in existence in this state for at least one year
4 is hereby authorized to conduct raffles without compliance
5 with the licensing provisions of this article: *Provided*, That
6 any prize awarded in any single raffle at a raffle occasion
7 may not exceed in value the sum of one thousand dollars:
See 8 *Provided, however*, that the cumulative gross proceeds
9 derived from the conduct of raffle occasions by any such
10 charitable or public service organization shall not exceed

11 seven thousand five hundred dollars during any calendar
12 year: *Provided further*, That any such organization shall
13 not be subject to the record keeping provisions of section
14 sixteen of this article but shall maintain a separate
15 accounting for the operation of raffles. All records required
16 by this section shall be maintained for at least three
17 calendar years and shall be available for reasonable
18 inspection by the commissioner.

**§43-21-4. Who may hold raffles; application for license;
licenses not transferable.**

1 Except as provided in section three of this article, any
2 charitable or public service organization which has been in
3 existence in this state for at least one year prior to ^{filing} an *an*
4 application for a raffle license issued pursuant to section
5 five or section six of this article may hold raffle occasions in
6 accordance with the provisions of this article during such
7 time as it holds a valid license.

8 Application for a raffle license shall be made to the tax
9 commissioner and shall be on a form which shall be
10 supplied by him. The application shall contain the
11 information required by section eight of this article and any
12 other information which the commissioner considers
13 necessary. An application shall be filed not less than sixty
14 days before the date when the applicant intends to hold its
15 first raffle occasion. An application which is not denied
16 within thirty days after filing is considered approved and
17 the commissioner shall, within five days after the
18 expiration of such thirty days, send to the applicant its
19 license.

20 For purposes of this article, any application for an annual
21 license or a limited occasion license received prior to the
22 effective date of this article is considered filed on such
23 effective date.

24 No raffle license issued pursuant to this article may be
25 transferred.

§47-21-5. Annual license; conditions on holding of raffles.

1 A charitable or public service organization, or any of its
2 auxiliaries or other organizations otherwise affiliated with
3 it, may apply for an annual license. Only one license per
4 year in the aggregate may be granted to a charitable or

5 public service organization and all of its auxiliaries or other
6 associations or organizations otherwise affiliated with it:
7 *Provided*, That for purposes of this section, the various
8 branches, chapters or lodges of any national association or
9 organization or local churches^h of a nationally organized
10 church are not considered affiliates or auxiliaries of each
11 other. The commissioner shall by regulation provide for the
12 manner for determining to which organization, whether the
13 parent organization, an affiliate or an auxiliary, the one
14 license allowed under this section is granted. An annual
15 license is valid for one year from the date of issuance. No
16 organizations may hold a joint raffle occasion under any
17 annual licenses.

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18 A licensee shall display its annual raffle license
19 conspicuously at the location where the raffle occasion is
20 held.

§47-21-6. Limited occasion license; conditions on holding of raffles.

1 Two or more organizations may hold a joint raffle
2 occasion provided each participating organization has been
3 granted a limited occasion raffle license for such jointly
4 held occasion: *Provided*, That no licensee which holds an
5 annual license may obtain more than one limited occasion
6 license.

7 A limited occasion license is valid only for the time period
8 specified in the application and entitles only the licensee to
9 hold two raffle occasions during the time period so specified
10 which may not exceed six months from the date of issuance
11 of such limited occasion license.

12 Subject to the limitations set forth in this section for
13 charitable or public service organizations having an annual
14 license, a charitable or public service organization and all
15 of its auxiliaries or other associations or organizations
16 otherwise affiliated with it, may be granted only three
17 limited occasion licenses per year in the aggregate. For
18 purposes of this section, the various branches, chapters or
19 lodges of any national association or organization or local
20 churches of a nationally organized church are not
21 considered affiliates or auxiliaries of each other. The
22 commissioner shall by regulation provide the manner for
23 determining to which organization, whether the parent

24 organization, an affiliate or an auxiliary, the three licenses
25 allowed under this section are granted.

26 A licensee shall display its limited occasion license
27 conspicuously at the location where the raffle occasion is
28 held.

§47-21-7. License fee and exemption from taxes.

1 (a) A license fee shall be paid to the tax commissioner
2 for annual licenses in the amount of fifty dollars. A license
3 fee shall be paid to the tax commissioner for a limited
4 occasion license in the amount of twenty-five dollars. The
5 license fee imposed by this section is in lieu of all other
6 license or franchise taxes or fees of this state, and no county,
7 municipality or political subdivision of this state is
8 empowered to impose a license or franchise tax or fee on any
9 raffle or raffle occasion.

10 (b) The gross proceeds derived from the conduct of
11 raffle occasions are exempt from state and local business
12 and occupation taxes, income taxes, excise taxes and all
13 special taxes. Any charitable or public service organization
14 conducting a raffle occasion pursuant to the provisions is
15 exempt from payment of consumers sales and service taxes,
16 use taxes and all other taxes on all purchases for use or
17 consumption in the conduct of a raffle occasion and is
18 exempt from collecting consumers sales taxes on any
19 admission fees and sales of raffle tickets.

§47-21-8. Information required in application.

1 An application for a raffle license shall include the
2 following information:

3 (a) Name of the applicant and name and headquarter's
4 address of any state or national organization of which the
5 applicant is a local branch or lodge;

6 (b) The address and telephone number of the applicant
7 organization, if any, and if the applicant organization has
8 no telephone, then the address and telephone number of the
9 person applying on behalf of such organization shall be
10 supplied;

11 (c) For a limited occasion license, the names and
12 addresses of two or more bona fide active members of the
13 applicant organization who are charged with overall
14 responsibility for the applicant's raffle operations, at least

15 one of whom shall be present when the winning numbers or
16 names are drawn, announced, posted and verified and the
17 prizes are awarded; and the names and addresses of the
18 highest elected officer of the licensee and his officially
19 appointed designee, one of whom shall be present when the
20 winning numbers or names are drawn, announced, posted
21 and verified and the prizes are awarded; for an annual
22 license, the names, addresses and telephone numbers of
23 three or more bona fide active members of the applicant
24 organization who are charged with overall responsibility
25 for the applicant's raffle operations, at least one of whom
26 shall be present when the winning numbers or names are
27 drawn, announced, posted and verified and the prizes are
28 awarded; and the names and addresses and telephone
29 numbers of the highest elected officer of the licensee and his
30 officially appointed designee, one of whom shall be present
31 when the winning numbers or names are drawn,
32 announced, posted and verified and the prizes are awarded;

33 (d) The address or location of the premises where
34 licensed raffles are to be held;

35 (e) Information as may be required by the commissioner
36 to satisfy him that the applicant meets the requirements of:

37 (1) Being a charitable or public service organization as
38 defined by this article; and

39 (2) Being in existence in this state for at least one year
40 prior to filing an application for a raffle license;

41 (f) Designate the date or dates and the time or times
42 when the raffle occasions will be held;

43 (g) Name the owner of the premises where the raffle
44 occasions are to be held; and providing a copy of all rental
45 agreements involved if such premises are leased or
46 subleased by the applicant from the owner or lessee;

47 (h) State whether the applicant has ever had a previous
48 application for any raffle license refused, or whether any
49 previous raffle license has been revoked or suspended;

50 (i) State the charitable or public service purpose or
51 purposes for which the raffle proceeds will be expended;

52 (j) Provide statements to the effect that the individuals
53 specified in subdivision (c) of this section and the officers of
54 the applicant understand:

55 (1) That it is a violation of the article to allow any

56 persons other than those authorized by this article to
57 conduct the raffle or concessions operated in conjunction
58 therewith;

59 (2) That it is required that the reports be filed and the
60 records kept as provided by this article; and

61 (3) That it is a crime to violate the provisions of this
62 article and, that a violation of such provisions may result in
63 suspension or revocation of the raffle license and denial of
64 applications for subsequent raffle licenses;

65 (k) Provide a sworn statement by an authorized
66 representative of the applicant that the information
67 contained in the application is true to the best of his
68 knowledge;

69 (l) Provide a list and description of estimated expenses
70 to be incurred in connection with the holding of the raffle
71 occasions and any concessions operated and the name and
72 address of each payee. If a concession is operated in
73 accordance with the provisions of section thirteen of this
74 article, a copy of any written agreement or an explanation
75 of any oral agreement providing for any type of
76 remuneration to be received by the concession operator
77 shall be attached to the application;

78 (m) A list of the names and addresses of all officers and
79 members of the board of directors, governors or trustees, if
80 any, of the applicant organization; and

81 (n) Any other necessary and reasonable information
82 which the commissioner may require.

§47-21-9. Amendment of license.

1 If circumstances beyond the control of the licensee
2 organization prohibit it from holding any raffle occasion in
3 accordance with the information provided by it in its
4 license application form, the license organization may
5 request approval by the commissioner to modify the terms
6 and conditions of its license.

§47-21-10. Licensee rules and regulations.

1 Each licensee may adopt rules and regulations, not
2 inconsistent with or in violation of the provisions of this
3 article, or rules or regulations promulgated hereunder, to
4 govern the conduct of raffle occasions.

5 Any rules and regulations adopted by the licensee shall be

6 made available for inspection at all raffle occasions held.
7 Any such rules and regulations adopted are a part of the
8 records required to be kept by section sixteen of this article.

§47-21-11. Limits on prizes awarded—General provisions.

1 During the period of a license, the total value of all prizes
2 awarded by a licensee shall not exceed in value sixty-five
3 percent of the gross proceeds collected during such period
4 or the sum of one hundred thousand dollars as determined
5 and assigned under this section, whichever amount shall be
6 less: *Provided*, That notwithstanding the foregoing
7 limitation, the total prizes awarded by a licensee, or in the
8 aggregate by two or more limited occasion licensees holding
9 a joint raffle occasion, for any raffle occasion held pursuant
10 to a limited occasion license may not exceed in value seven
11 thousand five hundred dollars.

12 Prizes may be money, real or personal property, or
13 merchandise other than beer, wine, spirits or alcoholic
14 liquor as defined in section five, article one, chapter sixty of
15 this code. If the prizes are real or personal property or
16 merchandise, the value assigned to them is their fair market
17 value at the time of acquisition for the raffle or at the time of
18 purchase.

§47-21-12. Compensation.

1 Except as otherwise provided in section thirteen of this
2 article, no individual who participates in any manner in the
3 conduct of a raffle occasion or the operation of a concession
4 in conjunction with a raffle occasion may receive or accept
5 either directly or indirectly any commission, wage, salary,
6 reward, tip, donation, gratuity or other form of
7 compensation or remuneration, regardless of the source, for
8 his work, labor or services.

§47-21-13. Concessions exception.

1 A licensee may allow any person to operate concessions in
2 conjunction with raffle occasions, and to be compensated
3 for such operation, in accordance with the following
4 provisions:
5 (a) The licensee organization is one which meets or
6 holds functions other than raffle occasions on a regular
7 basis;

8 (b) The concession to be operated at the raffle occasion
9 is operated regularly at such meetings or functions;

10 (c) The person which operates the concession at such
11 regular meetings or functions is the same which operates
12 the concessions at the raffle occasion; and

13 (d) The terms of the agreement under which the person
14 operates the concession at the raffle occasion are the same
15 terms under which the concession is operated at the regular
16 meetings or functions: *Provided*, That a copy of such
17 agreement is filed at the time the application is made and
18 any changes thereto are filed within ten days of being made.

19 In addition, any charitable or public service organization
20 as defined in section two of this article may operate a
21 concession at any raffle occasions held by a licensee:
22 *Provided*, That the net proceeds it receives from that
23 concession are used solely for the charitable or public
24 service purposes of that organization.

**§47-21-14. Rent or other fee for use of premises; rent or other
fee received by licensee prohibited;
reimbursement of expenses.**

1 (a) No owner or lessee, including his agent, of premises
2 on which raffle occasions are held by one or more licensees
3 holding annual raffle licenses may receive rent or other fee
4 in any amount for the holding of more than two raffle
5 occasions per month on his premises. No owner or lessee,
6 including his agent, of premises on which raffle occasions
7 are held by one or more licensees holding limited occasion
8 licenses may receive rent or other fee in any amount for the
9 holding of more than twelve raffle occasions per year on his
10 premises: *Provided*, That the total number of raffle
11 occasions for which any owner or lessee, including his
12 agent, may receive rent or other fee in any one year may not
13 exceed twenty-four.

14 (b) No licensee may receive, either directly or indirectly,
15 rent or other fee in any amount for permitting its premises
16 to be used by any person, including any auxiliaries or other
17 organizations or entities otherwise associated with the
18 licensee, to hold a raffle occasion.

19 (c) Nothing in this section may prevent such owners,
20 lessees or licensees from being reimbursed, by any licensee
21 who does not pay rent or other fee to use the premises to

22 conduct a raffle occasion, for the reasonable, necessary and
23 actual expenses incurred by such use, not to exceed fifty
24 dollars.

**§47-21-15. Payment of reasonable expenses from proceeds; net
proceeds disbursement.**

1 (a) The reasonable, necessary and actual expenses
2 incurred in connection with the conduct of raffle occasions,
3 not to exceed ten percent of the gross proceeds collected
4 during a license period, may be paid out of the gross
5 proceeds from the conduct of a raffle, including, but not
6 limited to:

7 (1) Rent paid for the use of the premises: *Provided*, That
8 a copy of the rental agreement was filed with the raffle
9 license application with any modifications thereto to be
10 filed within ten days of being made;

11 (2) The cost of custodial services;

12 (3) The cost to the licensee organization for equipment
13 and supplies used to conduct the raffle occasion;

14 (4) The cost to the licensee organization for advertising
15 the raffle occasion; and

16 (5) The cost of hiring security personnel.

17 (b) The actual cost to the licensee for prizes, not to
18 exceed the amounts as specified in section eleven of this
19 article, may be paid out of the gross proceeds from the
20 conduct of the raffle.

21 (c) The cost of any refreshments, souvenirs or any other
22 items sold or otherwise provided through any concession to
23 the patrons may not be paid for out of the gross proceeds
24 from the raffle occasion. The licensee shall expend all net
25 raffle proceeds and any interest earned thereon for the
26 charitable or public service purposes stated in the
27 application within one year after the expiration of the
28 license under which the raffle occasions were conducted. A
29 licensee which does not qualify as a qualified recipient
30 organization may apply to the commissioner at the time it
31 applies for a raffle license or as provided in subsection (e) of
32 this section for permission to apply any or all of its net
33 proceeds to directly support a charitable or public service
34 activity or endeavor which it sponsors.

35 (d) No gross proceeds from any raffle operation may be
36 devoted or in any manner used by any licensee or qualified

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37 recipient organization for the construction, acquisition,
38 improvement, maintenance or repair of real or personal
39 property except that which is used exclusively for one or
40 more charitable or public service purposes or as provided in
41 subdivision (3), subsection (a) of this section.

42 (e) Any licensee which, in good faith, finds itself unable
43 to comply with the requirements of the foregoing provisions
44 of this section shall apply to the commissioner for
45 permission to expend its net proceeds for one or more
46 charitable or public service purposes other than that stated
47 in its license application or for permission to expend its net
48 proceeds later than the one-year time period specified in
49 this section. The application shall be on a form furnished by
50 the commissioner and shall include the particulars of the
51 requested changes and the reasons for the changes. The
52 application shall be filed no later than sixty days before the
53 end of the one-year period specified in this section. In the
54 case of an application to extend the time in which the net
55 proceeds are to be expended for a charitable or public
56 service purpose, the licensee shall file such periodic reports
57 with the commissioner as the commissioner directs until the
58 proceeds are so expended.

§47-21-16. Records; commissioner audit.

1 Any licensee which holds a raffle occasion as provided by
2 this article shall maintain a separate account and separate
3 bookkeeping procedure for its raffle operations. All records
4 required by this article shall be maintained for at least three
5 years and shall be open to the commissioner for reasonable
6 inspection. Whenever the commissioner has reasonable
7 cause to believe a licensee has violated any of the provisions
8 of this article, he may perform or cause to be performed an
9 audit of the licensee's books and records.

§47-21-17. Advertising.

1 A licensee may advertise its raffle occasions in a manner
2 reasonably necessary to promote the occasion.

§47-21-18. Fraud; penalties.

1 In addition to any other offense set forth in this code, any
2 person who or licensee which knowingly conducts or
3 participates in a fraudulently or deceptively conducted

4 raffle with intent to defraud is guilty of a felony, and, upon
5 conviction thereof, shall be fined not less than five hundred
6 nor more than ten thousand dollars, or imprisoned in the
7 penitentiary not less than one nor more than five years, or
8 both fined and imprisoned.

§47-21-19. Obtaining license fraudulently; penalty.

1 In addition to any other offense set forth in this code, any
2 person who or licensee which knowingly obtains or assists
3 another in obtaining a raffle license under false, deceptive
4 or fraudulent pretenses is guilty of a misdemeanor, and,
5 upon conviction thereof, shall be fined not less than five
6 hundred nor more than ten thousand dollars.

§47-21-20. Violation of provisions; penalties.

1 Any person who knowingly violates any provision of this
2 article, other than the provisions of sections eighteen and
3 nineteen, is guilty of a misdemeanor, and, upon conviction
4 thereof, shall be fined not less than one hundred nor more
5 than one thousand dollars; and, upon a second or
6 subsequent conviction thereof, shall be fined not less than
7 one hundred nor more than one thousand dollars or
8 imprisoned not more than one year or both fined and
9 imprisoned.

§47-21-21. Administration; rules and regulations.

1 (a) The commissioner shall promulgate rules and
2 regulations to administer the provisions of this article in
3 accordance with the provisions of chapter twenty-nine-a of
4 this code.

5 (b) The commissioner shall deny an application for a
6 license or modification thereof if he finds that the issuance
7 thereof would be in violation of the provisions of this
8 article.

9 (c) The commissioner may revoke, suspend or refuse to
10 renew a license if the licensee or any member of a licensee
11 organization has been convicted pursuant to section
12 eighteen or nineteen of this article and the commissioner
13 finds that it would be in the public interest to do so; or if the
14 licensee has violated any of the provisions of this article:
15 *Provided*, That before revoking or suspending a license
16 issued under the authority of this article, the commissioner

17 shall give at least ten days, three days for a limited occasion, ^{license, *de*}
son 18 notice to the licensee. Notice shall be in writing, state the
19 reason for revocation or suspension and designate a time
20 and place when the licensee may show cause why the license
21 should not be revoked or suspended. The notice required by
22 this section shall be by personal or substituted service, in
23 accordance with the West Virginia rules of civil procedure
24 for trial courts of record, on the person who applied for the
25 license on behalf of the licensee. The licensee may, at the
26 time designated for the hearing, present evidence in its
27 behalf and be represented by counsel. A decision of the
28 commissioner revoking or suspending a license is subject to
29 judicial review upon the appeal of a licensee. Such decision
30 shall be subject to judicial review in the same manner as
31 other decisions of the commissioner.

32 (d) The commissioner may suspend, revoke or refuse to
33 renew any license issued hereunder for a material failure to
34 maintain the records or file the reports required by this
35 article if the commissioner finds that such failure will
36 substantially impair the commissioner's ability to
37 administer the provisions of this article with regard to such
38 licensee.

39 (e) The commissioner shall promulgate reasonable rules
40 and regulations necessary to the administration of this
41 article.

42 (f) The provisions of article five, chapter twenty-nine-a
43 of this code apply to the denial, revocation, suspension of or
44 refusal to renew a license hereunder.

45 (g) The burden of proof in any administrative or court
46 proceeding is on the applicant to show cause why a raffle
47 license should be issued or renewed and on the licensee to
48 show cause why its license should not be revoked or
49 suspended.

50 (h) Notwithstanding any other provision of this article,
51 the commissioner may issue an emergency order
52 suspending a raffle license under the following
53 circumstances and in the following manner:

54 (1) An emergency order may be issued only when the
55 commissioner believes that:

56 (a) There has been a criminal violation of this article;
57 (b) Such action is necessary to prevent a criminal
58 violation of this article; or

59 (c) Such action is necessary for the immediate
60 preservation of the public peace, health, safety, morals,
61 good order or general welfare.

62 (2) The emergency order shall set forth the grounds
63 upon which it is issued, including a statement of facts
64 constituting the alleged emergency necessitating such
65 action. This order shall be served by personal or substituted
66 service on the licensee or the person who applied for the
67 license on behalf of the licensee.

68 (3) The emergency order is effective immediately upon
69 issuance and service upon the licensee.

70 (4) Within five days after issuance of an emergency
71 order, the commissioner shall set a time and place for a
72 hearing wherein the licensee may appear and show cause
73 why its license should not be revoked.

§47-21-22. Filing of reports.

1 Each licensee holding an annual, limited or state fair
2 license shall file with the commissioner a financial report
3 summarizing its raffle operation within thirty days after
4 the expiration date of such license.

5 The reports required by this section shall contain the
6 name, address and social security number of any individual
7 who received during the course of a raffle occasion prizes
8 the aggregate value of which exceeded one hundred dollars,
9 and other information required by the commissioner.

§47-21-23. Filing of copy of license; application open to public inspection.

1 Whenever a license is granted pursuant to this article, the
2 commissioner shall cause a copy of the license to be filed
3 and recorded with the clerk of the county commission~~r~~ of
4 the county in which the raffle occasions are to be held. A *Jew*
5 copy of the application shall be made available for public
6 inspection in the office of the commissioner.

§47-21-24. County option election.

1 The county commission of any county is authorized to call
2 a local option election for the purpose of determining the
3 will of the voters as to whether the provisions of this article
4 shall continue in effect in such county.

5 A petition for a local option election shall be in the form
6 specified in this section and shall be signed by qualified
7 voters residing within such county equal to at least ten
8 percent of the individuals qualified to vote within such
9 county at the last general election. The petition may be in
10 any number of counterparts and is sufficient if
11 substantially in the following form:

12 PETITION ON LOCAL OPTION ELECTION
13 RESPECTING THE CONDUCT OF
14 RAFFLES FOR
15 CHARITABLE PURPOSES
16 IN COUNTY,
17 WEST VIRGINIA

18 Each of the undersigned certifies that he or she is an
19 individual residing in County, West Virginia, and
20 is duly qualified to vote in that county under the laws of the
21 state, and that his or her name, address, and the date of
22 signing this petition are correctly set forth below.

23 The undersigned petition the county commission to call
24 and hold a local option election at (1) a special election or (2)
25 the next primary, general or special election [the petition
26 shall specify (1) or (2)] upon the following question: Shall
27 the provisions of article twenty-one, chapter forty-seven of
28 the code of West Virginia, one thousand nine hundred
29 thirty-one, as amended, continue in effect in
30 County, West Virginia?

31 Name Address Date
32

33 (Each individual signing must specify either his post office
34 address or his street number.)

35 Upon the filing of a petition for a local option election in
36 accordance with the provisions of this section, the county
37 commission shall enter an order calling a local option
38 election as specified in the petition. The county commission
39 shall give notice of such local option election by publication
40 thereof as a Class II-0 legal advertisement in compliance
41 with the provisions of article three, chapter fifty-nine of
42 this code, and the publication area for such publication
43 shall be the county. The notice shall be so published within
44 fourteen consecutive days next preceding the election.

45 Each individual qualified to vote in the county at any
46 primary, general or special election, shall likewise be

47 qualified to vote at the local option election. The election
 48 officers appointed and qualified to serve as such at any
 49 primary, general or special election shall conduct the local
 50 option election. If the local option election is to be held at
 51 the same time as a primary, general or other special
 52 election, it shall be held in connection with and as a part of
 53 that primary, general or special election. The ballots in the
 54 local option election shall be counted and returns made by
 55 the election officers and the results certified by the
 56 commissioners of election to such county commission which
 57 shall canvass the ballots, all in accordance with the laws of
 58 the state of West Virginia relating to primary and general
 59 elections insofar as the same are applicable. The county
 60 commission shall, without delay, canvass the ballots cast at
 61 said local option election and certify the result thereof.

§47-21-25. Prohibited acts by convicted persons.

1 Any person convicted of any felony, or of a misdemeanor
 2 for a gambling offense, or of a violation of any provision of
 3 article twenty of this chapter, is prohibited from directly or
 4 indirectly obtaining a raffle license, conducting a raffle
 5 game, operating a concession or leasing or providing to a
 6 licensee any premises where raffle occasions maybe held,
 7 within ten years from such conviction.

§47-21-26. Restrictions on use of raffle equipment.

1 A licensee may use only raffle equipment which it owns or
 2 which it borrows without compensation, or leases for a
 3 reasonable and customary amount, from another licensee.

§47-21-27. Proceeds of state fair.

1 The Legislature declares that the net proceeds of any
 2 raffle game which accrue to the West Virginia state fair are
 3 considered used for charitable or public service purposes as
 4 defined in section two of this article. Any proceeds allowed
 5 by the state fair board to be paid to or retained by persons
 6 who conduct raffle occasions at the state fair are deemed to
 7 be expenses incurred by the state fair board.

§47-21-28. State fair raffle license; rules and regulations.

1 The West Virginia state fair board may apply annually to
 2 the tax commissioner for a state fair raffle license to provide

3 for the conduct of raffle occasions at the state fair. The
4 license shall permit the state fair board to have one or more
5 persons conduct raffle occasions at the state fair who have
6 conducted raffle occasions on a regular basis for at least one
7 year prior to the date of the state fair board's application. A
8 license fee of five hundred dollars shall be paid to the tax
9 commissioner for the state fair raffle license. The provisions
10 of sections eleven, twelve, fourteen, fifteen and twenty-six
11 of this article do not apply to a state fair raffle license. No
12 state fair raffle license may be issued unless the application
13 includes a copy of any lease or agreement entered into
14 between the state fair board and the persons who are to
15 conduct raffle occasions at the state fair. The state fair
16 board may adopt reasonable rules and regulations, not
17 inconsistent with or in violation of the provisions of this
18 article, to govern the holding of raffle occasions at the state
19 fair.

§47-21-29. Severability.

1 If, for any reason, any section, sentence, clause, phrase or
2 provision of this article or the application thereof to any
3 person or circumstance is held unconstitutional or invalid,
4 such unconstitutionality or invalidity shall not affect other
5 sections, sentences, clauses, phrases or provisions or their
6 application to any other person or circumstance, and to this
7 end each and every section, sentence, clause, phrase or
8 provision of this article is hereby declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30*
day of *March*, 1984

..... *[Signature]*
Governor

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OFFICE
SECY. OF STATE