WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
Committee Substitute for
SENATE BILL NO. 312

(By Mr. Breiter)

PASSED March 14, 1984
In Effect 30 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
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:

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

§47-21-2. Definitions.

For purposes of this article, unless specified otherwise:
(a) "Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits one or more people by:
(1) Contributing to educational or religious purposes; or
(2) Relieving them from disease, distress, suffering, constraint or the effects of poverty; or
(3) Increasing their comprehension of and devotion to the principles upon which this nation was founded and to the principles of good citizenship; or
(4) Making them aware of or educating them about issues of public concern so long as the activity or endeavor is not aimed at supporting or participating in the campaign of any candidate for public office; or
(5) By lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or
(6) Providing or supporting nonprofit community activities for youth, senior citizens or the disabled; or
(7) Providing or supporting nonprofit cultural, musical or artistic activities.
(b) "Charitable or public service organization" means a bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office.
(c) "Commissioner" means the state tax commissioner.
(d) "Concession" means any stand, booth, cart, counter or other facility, whether stationary or movable, where
beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other tobacco products, newspapers, souvenirs or any other items are sold to patrons by an individual operating the facility. Notwithstanding anything contained in subdivision (2), subsection (a), section twelve, article seven, chapter sixty of this code to the contrary, "concession" includes beverages which are regulated by and shall be subject to the provisions of chapter sixty of this code.

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

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

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

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

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

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

(k) "Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership or other nongovernmental entity or institution.
(l) "Patron" means any individual who attends a raffle occasion other than an individual who is participating in the conduct of the occasion or in the operation of any concession, whether or not the individual is charged an entrance fee or participates in any raffle.

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

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

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

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

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

Notwithstanding any other provisions of this article to the contrary, any charitable or public service organization which has been in existence in this state for at least one year is hereby authorized to conduct raffles without compliance with the licensing provisions of this article: Provided, That any prize awarded in any single raffle at a raffle occasion may not exceed in value the sum of one thousand dollars: Provided, however, that the cumulative gross proceeds derived from the conduct of raffle occasions by any such charitable or public service organization shall not exceed
seven thousand five hundred dollars during any calendar year: Provided further, That any such organization shall not be subject to the record keeping provisions of section sixteen of this article but shall maintain a separate accounting for the operation of raffles. All records required by this section shall be maintained for at least three calendar years and shall be available for reasonable inspection by the commissioner.

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

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

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

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

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

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

A charitable or public service organization, or any of its auxiliaries or other organizations otherwise affiliated with it, may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or
public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: Provided, That for purposes of this section, the various branches, chapters or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by regulation provide for the manner for determining to which organization, whether the parent organization, an affiliate or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance. No organizations may hold a joint raffle occasion under any annual licenses. A licensee shall display its annual raffle license conspicuously at the location where the raffle occasion is held.

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

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

A limited occasion license is valid only for the time period specified in the application and entitles only the licensee to hold two raffle occasions during the time period so specified which may not exceed six months from the date of issuance of such limited occasion license. Subject to the limitations set forth in this section for charitable or public service organizations having an annual license, a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it, may be granted only three limited occasion licenses per year in the aggregate. For purposes of this section, the various branches, chapters or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by regulation provide the manner for determining to which organization, whether the parent
organization, an affiliate or an auxiliary, the three licenses
allowed under this section are granted.
A licensee shall display its limited occasion license
conspicuously at the location where the raffle occasion is
held.

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

(a) A license fee shall be paid to the tax commissioner
for annual licenses in the amount of fifty dollars. A license
fee shall be paid to the tax commissioner for a limited
occasion license in the amount of twenty-five dollars. The
license fee imposed by this section is in lieu of all other
license or franchise taxes or fees of this state, and no county,
municipality or political subdivision of this state is
empowered to impose a license or franchise tax or fee on any
raffle or raffle occasion.
(b) The gross proceeds derived from the conduct of
raffle occasions are exempt from state and local business
and occupation taxes, income taxes, excise taxes and all
special taxes. Any charitable or public service organization
conducting a raffle occasion pursuant to the provisions is
exempt from payment of consumers sales and service taxes,
use taxes and all other taxes on all purchases for use or
consumption in the conduct of a raffle occasion and is
exempt from collecting consumers sales taxes on any
admission fees and sales of raffle tickets.

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

An application for a raffle license shall include the
following information:
(a) Name of the applicant and name and headquarter's
address of any state or national organization of which the
applicant is a local branch or lodge;
(b) The address and telephone number of the applicant
organization, if any, and if the applicant organization has
no telephone, then the address and telephone number of the
person applying on behalf of such organization shall be
supplied;
(c) For a limited occasion license, the names and
addresses of two or more bona fide active members of the
applicant organization who are charged with overall
responsibility for the applicant's raffle operations, at least
one of whom shall be present when the winning numbers or names are drawn, announced, posted and verified and the prizes are awarded; and the names and addresses of the highest elected officer of the licensee and his officially appointed designee, one of whom shall be present when the winning numbers or names are drawn, announced, posted and verified and the prizes are awarded; for an annual license, the names, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's raffle operations, at least one of whom shall be present when the winning numbers or names are drawn, announced, posted and verified and the prizes are awarded; and the names and addresses and telephone numbers of the highest elected officer of the licensee and his officially appointed designee, one of whom shall be present when the winning numbers or names are drawn, announced, posted and verified and the prizes are awarded;

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

(e) Information as may be required by the commissioner to satisfy him that the applicant meets the requirements of:
   (1) Being a charitable or public service organization as defined by this article; and
   (2) Being in existence in this state for at least one year prior to filing an application for a raffle license;

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

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

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

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

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

(1) That it is a violation of the article to allow any
56 persons other than those authorized by this article to
d57 conduct the raffle or concessions operated in conjunction
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
made available for inspection at all raffle occasions held. Any such rules and regulations adopted are a part of the 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 awarded by a licensee shall not exceed in value sixty-five percent of the gross proceeds collected during such period or the sum of one hundred thousand dollars as determined and assigned under this section, whichever amount shall be less: Provided, That notwithstanding the foregoing limitation, the total prizes awarded by a licensee, or in the aggregate by two or more limited occasion licensees holding a joint raffle occasion, for any raffle occasion held pursuant to a limited occasion license may not exceed in value seven thousand five hundred dollars.

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


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

§47-21-13. Concessions exception.

1 A licensee may allow any person to operate concessions in conjunction with raffle occasions, and to be compensated for such operation, in accordance with the following provisions:

(a) The licensee organization is one which meets or holds functions other than raffle occasions on a regular basis;
(b) The concession to be operated at the raffle occasion is operated regularly at such meetings or functions;
(c) The person which operates the concession at such regular meetings or functions is the same which operates the concessions at the raffle occasion; and
(d) The terms of the agreement under which the person operates the concession at the raffle occasion are the same terms under which the concession is operated at the regular meetings or functions: Provided, That a copy of such agreement is filed at the time the application is made and any changes thereto are filed within ten days of being made.

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

(a) No owner or lessee, including his agent, of premises on which raffle occasions are held by one or more licensees holding annual raffle licenses may receive rent or other fee in any amount for the holding of more than two raffle occasions per month on his premises. No owner or lessee, including his agent, of premises on which raffle occasions are held by one or more licensees holding limited occasion licenses may receive rent or other fee in any amount for the holding of more than twelve raffle occasions per year on his premises: Provided, That the total number of raffle occasions for which any owner or lessee, including his agent, may receive rent or other fee in any one year may not exceed twenty-four.

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

(c) Nothing in this section may prevent such owners, lessees or licensees from being reimbursed, by any licensee 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.

(a) The reasonable, necessary and actual expenses
incurred in connection with the conduct of raffle occasions,
not to exceed ten percent of the gross proceeds collected
during a license period, may be paid out of the gross
proceeds from the conduct of a raffle, including, but not
limited to:
(1) Rent paid for the use of the premises: Provided, That
a copy of the rental agreement was filed with the raffle
license application with any modifications thereto to be
filed within ten days of being made;
(2) The cost of custodial services;
(3) The cost to the licensee organization for equipment
and supplies used to conduct the raffle occasion;
(4) The cost to the licensee organization for advertising
the raffle occasion; and
(5) The cost of hiring security personnel.
(b) The actual cost to the licensee for prizes, not to
exceed the amounts as specified in section eleven of this
article, may be paid out of the gross proceeds from the
conduct of the raffle.
(c) The cost of any refreshments, souvenirs or any other
items sold or otherwise provided through any concession to
the patrons may not be paid for out of the gross proceeds
from the raffle occasion. The licensee shall expend all net
raffle proceeds and any interest earned thereon for the
charitable or public service purposes stated in the
application within one year after the expiration of the
license under which the raffle occasions were conducted. A
licensee which does not qualify as a qualified recipient
organization may apply to the commissioner at the time it
applies for a raffle license or as provided in subsection (e) of
this section for permission to apply any or all of its net
proceeds to directly support a charitable or public service
activity or endeavor which it sponsors.
(d) No gross proceeds from any raffle operation may be
devoted or in any manner used by any licensee or qualified
recipient organization for the construction, acquisition, improvement, maintenance or repair of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

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

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

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

§47-21-17. Advertising.

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

§47-21-18. Fraud; penalties.

In addition to any other offense set forth in this code, any person who or licensee which knowingly conducts or participates in a fraudulently or deceptively conducted
raffle with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars, or imprisoned in the penitentiary not less than one nor more than five years, or both fined and imprisoned.

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

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

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

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

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

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

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

3 (c) The commissioner may revoke, suspend or refuse to renew a license if the licensee or any member of a licensee organization has been convicted pursuant to section eighteen or nineteen of this article and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: Provided, That before revoking or suspending a license issued under the authority of this article, the commissioner
shall give at least ten days, three days for a limited occasion, notice to the licensee. Notice shall be in writing, state the reason for revocation or suspension and designate a time and place when the licensee may show cause why the license should not be revoked or suspended. The notice required by this section shall be by personal or substituted service, in accordance with the West Virginia rules of civil procedure for trial courts of record, on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, present evidence in its behalf and be represented by counsel. A decision of the commissioner revoking or suspending a license is subject to judicial review upon the appeal of a licensee. Such decision shall be subject to judicial review in the same manner as other decisions of the commissioner.

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

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

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

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

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

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

(a) There has been a criminal violation of this article;

(b) Such action is necessary to prevent a criminal violation of this article; or
(c) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.

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

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

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

§47-21-22. Filing of reports.

Each licensee holding an annual, limited or state fair license shall file with the commissioner a financial report summarizing its raffle operation within thirty days after the expiration date of such license. The reports required by this section shall contain the name, address and social security number of any individual who received during the course of a raffle occasion prizes the aggregate value of which exceeded one hundred dollars, and other information required by the commissioner.

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

Whenever a license is granted pursuant to this article, the commissioner shall cause a copy of the license to be filed and recorded with the clerk of the county commission of the county in which the raffle occasions are to be held. A copy of the application shall be made available for public inspection in the office of the commissioner.

§47-21-24. County option election.

The county commission of any county is authorized to call a local option election for the purpose of determining the will of the voters as to whether the provisions of this article shall continue in effect in such county.
A petition for a local option election shall be in the form specified in this section and shall be signed by qualified voters residing within such county equal to at least ten percent of the individuals qualified to vote within such county at the last general election. The petition may be in any number of counterparts and is sufficient if substantially in the following form:

PETITION ON LOCAL OPTION ELECTION
RESPECTING THE CONDUCT OF RAFFLES FOR CHARITABLE PURPOSES IN ........ COUNTY, WEST VIRGINIA

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

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

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

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

Each individual qualified to vote in the county at any primary, general or special election, shall likewise be
qualified to vote at the local option election. The election
officers appointed and qualified to serve as such at any
primary, general or special election shall conduct the local
option election. If the local option election is to be held at
the same time as a primary, general or other special
election, it shall be held in connection with and as a part of
that primary, general or special election. The ballots in the
local option election shall be counted and returns made by
the election officers and the results certified by the
commissioners of election to such county commission which
shall canvass the ballots, all in accordance with the laws of
the state of West Virginia relating to primary and general
elections insofar as the same are applicable. The county
commission shall, without delay, canvass the ballots cast at
said local option election and certify the result thereof.

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

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

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

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

§47-21-27. Proceeds of state fair.

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

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

The West Virginia state fair board may apply annually to
for the conduct of raffle occasions at the state fair. The license shall permit the state fair board to have one or more persons conduct raffle occasions at the state fair who have conducted raffle occasions on a regular basis for at least one year prior to the date of the state fair board’s application. A license fee of five hundred dollars shall be paid to the tax commissioner for the state fair raffle license. The provisions of sections eleven, twelve, fourteen, fifteen and twenty-six of this article do not apply to a state fair raffle license. No state fair raffle license may be issued unless the application includes a copy of any lease or agreement entered into between the state fair board and the persons who are to conduct raffle occasions at the state fair. The state fair board may adopt reasonable rules and regulations, not inconsistent with or in violation of the provisions of this article, to govern the holding of raffle occasions at the state fair.

§47-21-29. Severability.

If, for any reason, any section, sentence, clause, phrase or provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, sentences, clauses, phrases or provisions or their application to any other person or circumstance, and to this end each and every section, sentence, clause, phrase or 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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor