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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 312

(By Mr. Boether)

—•—

PASSED MARCH 10, 1984

In Effect UNLESS PASSED FROM Passage



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

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

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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~~ <sup>file</sup> an *See*  
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 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.

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.

*San*

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

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, <sup>license,</sup> *de*  
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 of  
4 the county in which the raffle occasions are to be held. A  
5 copy of the application shall be made available for public  
6 inspection in the office of the commissioner.

*few*

**§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

  
Chairman Senate Committee

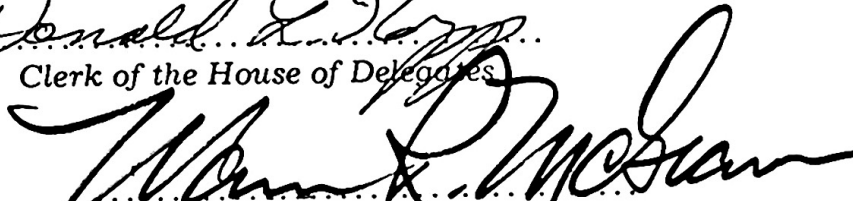
  
Chairman House Committee

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

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